United States Court of Appeals
for the Second Circuit

APPENDIX

NO. 77-4119

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United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

DISTRICT 1199, NATIONAL UNION OF HOSPITAL AND
HEALTH CARE EMPLOYEES, A DIVISION OF RWDSU,
AFL-CIO,

Respondent.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

UNITED STATES COURT OF APPEALS
FILED
AUG 23 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

APPENDIX

ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D.C. 20570.

PAGINATION AS IN ORIGINAL COPY

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II

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: District 1199, National Union of
Hospital Health Care Employees, A
Division of RWDSU, AFL-CIO

Case No. 2-CB-6125

1. 7.76	Charge filed
2.13.76	Complaint and Notice of Hearing, dated
3. 8.76	Respondent's Answer, dated
3.25.76	Regional Director's Order Amending Complaint, dated
4.13.76	Regional Director's Order Amending Complaint, dated
4.16.76	Respondent's Answer to Amended Complaint, dated
4.28.76	Regional Director's Order Changing Venue, dated
5.12.76	Hearing Opened
5.14.76	Hearing Closed
10.13.76	Administrative Law Judge's Decision issued
10.29.76	General Counsel's statement of Exceptions to Part of Administrative Law Judge's Decision, received
11. 9.76	Respondent's telegram requesting an extension of time, received
11. 9.76	General Counsel's telegram opposing Respondent's request for for extension of time, dated
11.10.76	Board's telegram granting Respondent's request for extension of time, dated
11.19.76	Respondent's Exceptions, received
1.31.77	Decision and Order of the National Labor Relations Board, dated

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JD-657-76
Southport, CT

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
WASHINGTON, D. C.

dated Oct 13, 1976

DISTRICT 1199, NATIONAL UNION
OF HOSPITAL HEALTH CARE EMPLOYEES,
A DIVISION OF RWDSU, AFL-CIO

and

Case No. 2-CB-6125

SOUTHPORT MANOR CONVALESCENT
CENTER, INC. 1/

Joel E. Biblowitz, Esq.,
of New York, NY, for
the General Counsel.
Vicki Erenstein, Esq., of
New York, NY, for
the Respondent.

DECISION

Statement of the Case

PETER E. DONNELLY, Administrative Law Judge: The charge herein was filed by Southport Manor Convalescent Center, Inc., herein called Employer or Charging Party, on January 7, 1976, and a complaint was issued by the General Counsel of the National Labor Relations Board on February 13, 1976. The complaint was subsequently amended by orders dated March 25, 1976 and April 13, 1976. Answers were timely filed by District 1199, National Union of Hospital Health Care Employees, a Division of RWDSU, AFL-CIO, herein called Respondent or Union. Pursuant to notice a hearing was held before the Administrative Law Judge at Bridgeport, Connecticut on May 12, 13 and 14, 1976. A brief was filed by Respondent which has been duly considered. 2/

1/ Employer's name appears as amended by order dated March 25, 1976.

2/ By letter dated June 11, 1976 it was represented to me by Robert J. Giovannetti, as an attorney for the Employer, that one of the witnesses, Barbara Crimley, on the evening following her testimony had rocks thrown through the window of her home. This letter was protested by counsel for Respondent by letter dated June 14, 1976 as improper. I agree. Giovannetti's out-of-hearing correspondence to me has been totally disregarded in my disposition of this matter.

Findings of Fact

I. Employer's Business

Southport Manor Convalescent Center, Inc., is a corporation duly organized under and existing by virtue of the laws of the State of Connecticut. At all times material herein, the Employer has maintained its principal office and place of business at 930 Mill Hill Terrace, Southport, Connecticut, where it is and has been at all times material herein continuously engaged in operating a nursing home and providing health care services and related services for the aged and infirm.

During the past calendar year the Employer in the course and conduct of its business operations performed services valued in excess of $100,000, and caused to be transported and delivered to its place of business, medical supplies and other goods and materials valued in excess of $50,000, of which, goods and materials valued in excess of $50,000 were transported and delivered to its place of business in interstate commerce directly from states of the United States other than the State in which Employer is located. 3/ Based upon the above facts, I conclude that the Employer is an employer engaged in commerce within the meaning of Section 2(5) of the Act.

II. Labor Organization

Respondent did not answer the labor organization allegation of the complaint. Accordingly, I deem said allegation to be admitted under the provisions of Section 102.20 of the Board's Rules and Regulations. Moreover, the record herein establishes the existence of statutory criteria sufficient to establish that Respondent is a labor organization within the meaning of Section 2(5) of the Act.

III. Alleged Unfair Labor Practices

The complaint alleges a series of incidents occurring primarily at the picket line, including threats, assaults and vehicle blocking directed against non-striking employees, all in violation of Section 8(b)(1)(A) of the Act.

A. Facts, 4/ Discussion and Analysis

The Union and the Employer were parties to a contract which expired September 30, 1975. Negotiations for a new contract began in

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3/ The complaint was amended by stipulation at the hearing to reflect these money figures.

4/ In making credibility findings herein, I note that only three witnesses, Jerome Brown, Marguerite Bellon and Lucinda Giles testified for the Respondent. None of the three were directly involved in any (Continued)

August of 1975. Kevin Doyle and his brother, Thomas Doyle, were union organizers and conducted the contract negotiations. After negotiations failed, the Union struck the Employer on December 3, 1975. Both Kevin Doyle and Thomas Doyle participated actively in the picketing activity which took place thereafter. The picket line was located some 10 feet from the end of the Employer's driveway which leads into a public road. Most of the alleged 8(b)(1)(A) incidents took place at the picket line as nonstriking employees were coming and going to work.

Prior to the strike, sometime in November of 1975 a union meeting was held at which a strike vote was taken. The meeting was attended by some 25 or 30 employees including Thomas Doyle, Margaret Leko and Geraldine Lazzaro, 5/ Marguerite Bellon and Lucinda Giles. Leko stated that from her seat she expressed the sentiment that she did not favor a strike. She testified that she was at the front of the room as was Thomas Doyle and that Lazzaro was about 10 feet away at the back of the room. Further, that Lazzaro in a loud voice told her in reference to the subsequently taken strike vote that if there was one "no" statement in the vote box it would be hers and her, ". . . arm would be broken." As noted earlier, neither Lazzaro nor Thomas Doyle testified. Bellon and Giles testified that they were in attendance at the meeting and did not hear the threat. The record indicates that there were other conversations taking place at the meeting and that neither Bellon nor Giles was so positioned as to be able to testify with certainty that the threat was not made. In addition the record shows that there was a considerable amount of discussion among groups of employees in attendance as to the matter of a strike and the scene did not have the appearance of a formal debate. Noting the failure of Thomas Doyle and Lazzaro to testify, I conclude that the remark was made in the presence of Doyle, and was heard by him. Nevertheless the record

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4/ (Continued) of the specific 8(b)(1)(A) allegations; neither Kevin Doyle nor Thomas Doyle testified and there is little conflicting testimony. However, to the extent that the testimony of Brown, Bellon and Giles conflicts with the testimony of the General Counsel's witnesses, I credit the witnesses called by the General Counsel. In making these credibility findings I have fully reviewed the entire record and observed the demeanor of all the witnesses. I have also taken into consideration the apparent interests of the witnesses; the inherent probabilities in light of other events; corroboration or lack of it; and consistencies or inconsistencies within the testimony of each witness and between the testimony of each and that of other witnesses with similar apparent interests. Testimony in contradiction to that upon which my factual findings are based has been carefully considered but discredited.

5/ The complaint was amended at the hearing to substitute the name "Geraldine Lazzaro" for "Myrtle Nicholson" in connection with this allegation.

does not disclose such positive evidence as to show ratification or approval by Thomas Doyle. In my opinion it would be unreasonable to hold the Union responsible for such remarks made by employees in the confused and emotional atmosphere of such union meetings. General Truckdrivers Local No. 5, 172 NLRB 137.

Leko further testified that on December 5, 1975, she came to work with her husband and three other employees. Her husband was driving and she was on the passenger side. They had reached the picket line and had stopped for the line to open. Thomas Doyle was present on the picket line. While stopped, Myrtle Nicholson, one of the pickets who was by the door on the driver's side, said in a loud voice, "You're going to get yours." In these circumstances I conclude that the remark was coercive, noting particularly the presence of Thomas Doyle on the picket line, and that the Respondent was responsible for the misconduct. 6/

As to another incident on December 8, 1975, Barbara Crimley, a nonstriking employee, testified that she came to work sometime between 6:30 and 7 a.m. in a car driven by Cathy Wright, another nonstriker. She was in the back seat on the driver's side holding a cup of hot chocolate. Just as the car was passing through the picket line, it stalled. At this time, Mary Hill, one of the picketing employees, reached into the back seat and slapped Crimley across the face, causing her to spill the hot chocolate on both herself and Hill. Kevin Doyle was on the picket line standing immediately beside Hill at the time of the incident. Marguerite Bellon, another picket, testified that she was present during this incident and the cocoa spilled as a result of Crimley putting her arm out the window in an attempt to throw the cocoa on Hill. However, I credit Crimley's version of the incident, particularly since it is unrebutted by Hill or Doyle, neither of whom testified. In the circumstances I conclude that the action by picket Hill was coercive and that Kevin Doyle was present and that the Union, as noted earlier, was responsible for the act of this picket.

6/ It is appropriate at the outset to consider the liability of the Union for acts of the pickets, occurring at the picket line. Clearly the Union is liable for the acts of its agents. Kevin Doyle and Thomas Doyle were agents of the Respondent. As set forth more fully below, Kevin Doyle himself engaged in substantial acts of misconduct in violation of Section 8(b)(1)(A) at the picket line. At other times they were present when pickets engaged in coercive activity. At no time did they attempt to take corrective action or to disavow the action of the pickets, nor does the evidence indicate that the picketing was not authorized by Respondent. In these circumstances I conclude that the Union was responsible for the misconduct of the pickets at the picket line, both while its agents were and were not present on the picket line. Dover Corporation, Norris Division, 211 NLRB 955.

In another incident on about December 5, 1975, Loren B. Sherman, another nonstriking employee, testified that his recently purchased van was stopped by Kevin Doyle at the picket line as he was going to work. Doyle said "That's a nice truck you have there, Sherman. And I'm going to take care of it." Sometime that night while parked at his residence, Sherman's van was damaged apparently by bricks being thrown at it. In the vicinity of the truck Sherman found a letter addressed to one Roosevelt Ward, one of the pickets. In my opinion, the remark made to Sherman by Kevin Doyle was coercive in the circumstances, representing a thinly veiled threat of reprisal against Sherman. However, I conclude that the evidence is not sufficient upon which to predicate a conclusion that Respondent was responsible for the damage to Sherman's van.

On another occasion about December 17, Loren Sherman, as a part of his job duties, was driving a van of employees through the picket line. As he went onto the premises past the pickets, Kevin Doyle said "Sherman, I'm going to kill you." Thereupon Sherman went to the police station and filed a complaint. He was followed to the police station by a Union organizer named Marilee Millstein. Millstein admonished him for reporting the matter to the police and while walking behind him at the police station, stepped on his heels. In my view, Doyle's threat upon Sherman's life was clearly coercive, even assuming that Kevin Doyle and Sherman had exchanged profanities as Sherman came and went through the picket line. I further conclude that Respondent violated the Act when Millstein followed Sherman to the police station and stepped on his heels. In my opinion, this type of harassment by a union organizer, directed to a non-striker, even away from the picket line, goes beyond the bounds of permissable efforts to persuade and constitutes coercion within the meaning of the Act.

Some 2 weeks after the strike began on about December 17, 1975, an employee named Rafael Garcia was driving a vehicle containing himself and his wife, also an employee of the Respondent, across the picket line as they left work. Kevin Doyle stood in front of the car. Doyle repeated the words "marico", which Garcia understood to mean homosexual in Spanish, and called him "garbage" while striking the car with his hand. In my opinion, by striking Garcia's auto, Doyle was intimidating both Garcia and his wife, with a resultant coercive effect on them which violates the Act. 7/

In another incident on about December 4, 1975, at about 4 p.m., patrolman Robert Harper of the Fairfield Police Department was on duty at the picket line as the Employer's van containing nonstriking employees was

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7/ Respondent contends that this matter was not alleged in the complaint and should not be considered. However, in addition to being alleged as a part of paragraph 8(h), it was fully litigated at the hearing and susceptible to disposition by me.

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in the driveway while crossing the picket line exiting from the Employer's premises. As the van passed, Cora Bennett, one of the pickets, while uttering profanities, threw a cup of hot chocolate at the side of the van, hitting the closed rear window on the side rear of the van. Bennett's action constitutes 8(a)(1) misconduct even though Harper cannot positively testify that either Kevin Doyle or Thomas Doyle were physically present on the picket line at the time of the occurrences. The Respondent is nevertheless responsible, as noted above, and will be held responsible for the acts of its pickets in the circumstances of this case. 8/

Nonstriking employee Barbara Crimley testified that on December 27, 1975, she was a passenger in a car driven by Jean Carr, another nonstriking employee, together with a third nonstriking employee named Emma Holman. They were leaving the premises on their way to lunch and had stopped at the picket line. At this time Kevin Doyle hit the window of the car with his fist on the driver's side behind the driver where Holman was sitting. Carr then momentarily released the brake causing the car to roll, slightly bumping into Mary, one of the pickets who was standing in front of the car. In my opinion, Doyle's action in hitting the window of the auto containing the nonstriking employees constitutes misconduct within the meaning of Section 8(b)(1)(A) of the Act. 9/

In another occurrence, Garcia testified that on February 16, at between 1 p.m. and 1:30 p.m. he was driving from work through the picket line with his wife. Cora Bennett, a picket, was on the picket line as was Kevin Doyle. While he was stopped at the picket line, Doyle repeatedly called Garcia "marico" and threw coffee and spit on the windshield and car door window on the driver's side. At the same time Bennett threw a soda on the windshield and the door window on the passenger's side. Another female picket, unknown to Garcia, was positioned in front of Garcia's car with her hands up. Garcia testified, "She said, 'Stop.' She do like that -- I tried to move. She said, 'No, the people don't move.'" I find that these acts were coercive and constitute 8(b)(1)(A) violations as to Doyle, Bennett and the unknown picket.

8/ Another beverage throwing incident occurred on approximately the same day as testified to by Officer Timothy Kelly, attributable to picketer Dino Smith. However, since there was no direct testimony that the coffee actually struck the van, I shall decline to make any 8(b)(1)(A) finding as to that incident.

9/ Lucinda Giles testified that Doyle banged on the window of the auto to make the car stop because it was driving into the picket. For the reasons noted above, and because Crimley was better situated during the incident to observe it, I credit Crimley's version over Giles'.

In another incident on February 17, 1976, a nonstriking employee named Nicholas Bonaiuto testified that as he drove to work at about 7:30 a.m. passage onto the premises was blocked at the picket line by Kevin Doyle. This was accomplished by Kevin Doyle standing in front of his car. During this time the pickets circled his car and his progress was still blocked by the pickets. At this time, Bonaiuto simply backed his car up to the road and drove home without going to work. By so blocking ingress to the plant Kevin Doyle violated Section 8(b)(1)(A) of the Act.

In another picket line incident, Anne Meyer testified that on about February 16 at about 12:45 p.m. she and Barry Jackson, an employee, went down to the area near the picket line to clean up the driveway after it having been reported to them that glass and nails had been thrown in the driveway. Kevin Doyle and several pickets were at the picket line behind barricades which had been placed at the edge of Respondent's property line. Jackson began sweeping up the glass and nails. Kevin Doyle began to direct obscenities with racial overtones at Jackson who is black, and crossed the barricades onto Employer's property. As he moved closer to Jackson, he continued the verbal abuse and kicked an empty soda can and a milk carton towards Jackson which missed him. Jackson backed off as Doyle approached. These actions by Doyle were threatening and intimidating and in my opinion constitute illegal coercion within the strictures of Section 8(b)(1)(A) of the Act.

In another incident on February 19, Louise Rowe, the employer's recreation director, testified that she left work with an employee named Louise Sherman, the mother of Loren Sherman. Rowe was driving and Sherman was her passenger. As they went through the picket line, they stopped for traffic at the public road beyond it. Kevin Doyle came to the window on the passenger's side and screamed from about three inches away "We'll get you, Sherman." I find that this remark was coercive in view of the previous picket line threats and constitutes coercion by intimidation of an employee on the picket line. I find nothing ambiguous about this statement itself as contended by Respondent.

IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of the Respondent set forth in section III, above, have a close and intimate relationship to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that Respondent has engaged in and is engaging in certain unfair labor practices, I shall recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

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Upon the basis of the foregoing findings of fact and conclusions, and upon the entire record in this case, I hereby make the following:

Conclusions of Law

1. Charging Party is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Respondent is a labor organization within the meaning of Section 2(5) of the Act.

3. By interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, Respondent has engaged in and is engaging in unfair labor practices proscribed by Section 8(b)(1)(A) of the Act.

Upon the foregoing findings of fact, conclusions of law and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, I hereby issue the following recommended: [10]

ORDER

Respondent, District 1199, National Union of Hospital Health Care Employees, a Division of RWDSU, AFL-CIO, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Restraining and coercing employees of Southport Manor Convalescent Center, Inc., by threatening to cause harm to employees of said Employer; by threatening to kill employees of said Employer; by assaulting the employees of said Employer, by blocking ingress and egress of said Employer to and from the Employer's premises; by striking the automobiles of employees of said Employer; by throwing liquids and spitting on the automobiles of employees of said Employer; by threatening to cause damage to the automobiles of employees of said Employer; or in any like or related manner restraining or coercing employees in the exercise of their rights under Section 7 of the Act.

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[10] In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Post at its offices and at any place where its meetings are customarily held, copies of the attached notice marked "Appendix." 11/ Copies of said notice on forms provided by the Regional Director for Region 2, after being duly signed by an official representative of Respondent, shall be posted by it immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to its members are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(b) Mail signed copies of the notice to said Regional Director for posting, Southport Manor Convalescent Center, Inc., willing, at all locations where notices to its employees are customarily posted.

(c) Notify the Regional Director for Region 2, in writing, within 20 days from the date of receipt of this Decision, what steps Respondent has taken to comply herewith.

It is further recommended that the complaint be dismissed insofar as it alleges violations of Section 8(b)(1)(A) of the Act not specifically found herein.

Dated at Washington, D. C.

October 13, 1976

Peter E. Donnelly

Peter E. Donnelly
Administrative Law Judge

11/ In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

Form NLRB-4758
(9-69)

APPENDIX

JD-657-76

NOTICE TO EMPLOYEES AND MEMBERS

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT threaten to cause harm to employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT threaten to kill employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT assault employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT block ingress and egress of employees of Southport Manor Convalescent Center, Inc., to and from its premises.

WE WILL NOT strike the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT threaten to cause damage to the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT throw liquids or spit on the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT threaten to cause damage to the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT in any like or related manner restrain or coerce employees of Southport Manor Convalescent Center, Inc., or the employees of any other employer in the exercise of the rights guaranteed them by Section 7 of the Act.

DISTRICT 1199, NATIONAL UNION
OF HOSPITAL HEALTH CARE EMPLOYEES,
A DIVISION OF RWDSU, AFL-CIO
(Labor Organization)

Dated ________________ By ______________________________
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 36th Floor - Federal Building, 26 Federal Plaza, New York, Nwe York 10007 Telephone (212) 264-0360.

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FILE
Exec. Sec. O
rec. Nov 19, 1976

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

- x
DISTRICT 1199, NATIONAL UNION OF : Case No. 2-CB-6125
HOSPITAL HEALTH CARE EMPLOYEES,
A DIVISION OF RWDSU, AFL-CIO, :

EXCEPTIONS

-and- :

SOUTHPORT MANOR CONVALESCENT
CENTER, INC.
- x

FILE IN
FORMAL FILE
A

Pursuant to §102.46 of the National Labor Relations Board's Rules and Regulations, the undersigned, as attorneys for District 1199, National Union of Hospital and Health Care Employees, RWDSU, AFL-CIO (hereinafter "District 1199" or "Union"), the respondent herein, take the following exceptions to the decision of Administrative Law Judge Peter E. Donnelly dated October 13, 1976:

1. The Administrative Law Judge erred in finding that in November 1975 Geraldine Lazarro told Margaret Leko that her "arm would be broken" if there were one "no" vote against the strike. (ALJ* p. 3; Tr.** pp. 112-118, 122-126, 315-320, 355-356, 360.)

2. The Administrative Law Judge erred in finding that Thomas Doyle actively participated in picketing at Southport Manor after the commencement of the strike on December 3, 1975. (ALJ p. 3) The record does not support such a finding. (Tr. pp. 291-293, 339-340.)

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* "ALJ" refers to the decision of the Administrative Law Judge.
** "Tr." refers to the transcript of the hearing herein.

3. The Administrative Law Judge erred in concluding that the alleged remark of Lazarro referred to above was made in the presence of Thomas Doyle and heard by him. (ALJ p. 3)

4. The Administrative Law Judge erred in finding that in the early morning of December 5, 1975, Myrtle Nicholson was present at the picket line and said, "You're going to get yours" to Margaret Leko as she arrived at work. (ALJ p. 4) The record does not support such a finding. (Tr. pp. 118-121, 321-323, 328, 362, _et_ _seq._)

5. The Administrative Law Judge erred in finding that Thomas Doyle was present at the picket line on December 5, 1975, during the incident referred to in Exception 4 above. (ALJ p. 4) The record does not support such a finding. (Tr. pp. 291-293, 339-340)

6. The Administrative Law Judge erred in concluding that the alleged aforesaid remark of Myrtle Nicholson, if made, was coercive within the meaning of the Act, and that the Union was responsible therefor. (ALJ p. 4)

7. The Administrative Law Judge erred in finding that on December 8, 1975, Mary Hill slapped Barbara Crimley across the face, thereby causing her to spill hot chocolate, and in concluding that the Union had violated the Act by the aforesaid conduct. (ALJ p. 4) The credible evidence does not support such findings and conclusions. (Tr. pp. 323-326) The Administrative Law Judge further erred in his failure to find that Crimley initiated an exchange with Hill by attempting to toss a cup of cocoa on her. (Tr. pp. 323-326)

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8. The Administrative Law Judge erred in finding that on or about December 5, 1975, Kevin Doyle said, "That's a nice truck you have there, Sherman. And I'm going to take care of it" to Loren Sherman (ALJ p. 5; Tr. pp. 147, 184-186), and in concluding that said remark, if made, was violative of the Act and attributable to the Union. The remark was ambiguous and, under the circumstances presented, not coercive.

9. The Administrative Law Judge erred in finding that a letter addressed to one Roosevelt Ward, a picket, was found near Loren Sherman's van. (ALJ p. 5; Tr. pp. 150, _et seq._) Under Federal Rules of Evidence Rule 1004, the testimony as to the contents of the letter was not properly before the Administrative Law Judge.

10. The Administrative Law Judge erred in finding that on or about December 17, 1976, Kevin Doyle said, "Sherman, I'm going to kill you " (ALJ p. 5; Tr. pp. 155, 183-187), as Sherman's testimony is biased, and further erred in concluding that such a remark, if made, constituted a threat upon Sherman's life. (ALJ p. 5; Tr. p. 153)

11. The Administrative Law Judge erred in concluding that the Union committed a violation of Section 8(b)(1)(A) of the Act by Kevin Doyle's alleged utterance to Loren Sherman of the remark referred to in Exception 10 above. (ALJ p. 5) Said remark, if uttered, reflected personal animosity between Sherman and Doyle rather than an intention to coerce an employee in the exercise of his Section 7 rights.

12. The Administrative Law Judge erred in finding that Merilee Millstein stepped on the heels of Loren Sherman as a form

of harassment, as the record does not support such a finding, and further erred in concluding that said conduct, if it occurred, is violative of Section 8(b)(1)(A). (ALJ p. 5; Tr. p. 178)

13. The Administrative Law Judge erred in finding that Kevin Doyle stood in front of the car of Rafael Garcia, a supervisory employee, and struck it with his hand while calling Garcia "marico" [sic] and "garbage." (ALJ p. 5) The record does not support such a finding. (Tr. pp. 42-44)

14. The Administrative Law Judge erred in finding that on December 4, 1975, Cora Bennett threw coffee at a van at the picket line while uttering obscenities. (ALJ p. 6) The credible evidence does not support such a finding. (Tr. pp. 85-87, 272-273, 322-323) The Administrative Law Judge improperly credited the testimony of Officer Harper, as it is biased and unreliable. (Tr. pp. 96-97, 289-290) The Administrative Law Judge further erred in attributing to the Union a violation of Section 8(b)(1)(A) based on the aforesaid alleged conduct of Bennett, inasmuch as the conduct, if it occurred, was not coercive and was not committed in the presence of, authorized by, or ratified by Union agents. (ALJ p. 6)

15. The Administrative Law Judge erred in his failure to find that on December 27, 1975, Kevin Doyle banged on the car window of an employee to stop the car as it was about to hit striker Mary Fanteff (ALJ p. 6) and in his conclusion that Doyle's conduct violated the Act. He further erred in finding that Doyle pounded the car window and caused the car to roll into the picket. The record does not support such findings. (ALJ p. 6; Tr. pp. 357-360, 237 et seq.)

16. The Administrative Law Judge erred in finding that on February 16, 1976, Cora Bennett and Kevin Doyle and an unknown picket spit on the car windshield of Rafael Garcia, threw soda and improperly stood in front of his car as he left the nursing home. The record does not support such a finding. (ALJ p. 6; Tr. pp. 42-46, 329)

17. The Administrative Law Judge erred in concluding that on February 17, 1976, Nicholas Bonaiuto was blocked from entering the plant in violation of Section 8(b)(1)(A) of the Act. (ALJ p. 7)

18. The Administrative Law Judge erred in finding that on February 16, 1976, Kevin Doyle, in the presence of strikers, directed obscenities with racial overtones at a black employee of Southport Manor Convalescent Center. (ALJ p. 7) The credible evidence does not support such a finding. (Tr. p. 27)

19. The Administrative Law Judge erred in his finding that the actions of Kevin Doyle in kicking an empty soda can and a milk carton towards Barry Jackson were threatening and intimidating. (ALJ p. 7) The record contains no support for this finding. (Tr. pp. 22, _et seq._) He further erred in concluding that these acts, if they occurred, constitute illegal coercion within the strictures of Section 8(b)(1)(A) of the Act. (ALJ p. 7)

20. The Administrative Law Judge erred in finding that on February 19, 1976, Kevin Doyle yelled, "We'll get you, Sherman," as a car containing employees Louise Rowe and Louise Sherman crossed the picket line. (ALJ p. 7) Said finding is not supported by the record. (Tr. p. 208) The Administrative Law Judge further erred in concluding that said remark, even if uttered, constituted coercion or intimidation in violation of the Act.

21. The Administrative Law Judge erred in failing to make specific credibility findings and failing to state the basis in the record therefor with respect to the testimony of Respondent's witnesses Jerome Brown, Marguerite Bellon and Lucinda Giles. (ALJ pp. 2-3, fn. 4)

22. The Administrative Law Judge erred in his conclusion that the Union was responsible for all misconduct of the pickets at the picket line, in both the presence and absence of Union agents. (ALJ p. 4, fn. 6) Such a conclusion is contrary to established Board precedent. The Administrative Law Judge further erred in his factual finding that "at no time did they [Union agents] attempt to take corrective action or to disavow the action of the pickets, nor does the evidence indicate that the picketing was not authorized by the Respondent." (ALJ p. 6; Tr. pp. 273-275, 281-291)

23. The Administrative Law Judge improperly drew negative inferences against the Union in connection with the alleged Lazarro and Hill incidents from the failure of Thomas Doyle, Kevin Doyle and Mary Hill to testify. (ALJ pp. 3, 4) The aforesaid individuals were unable to testify, inasmuch as they faced criminal charges arising out of the same circumstances. The drawing of negative inferences from their failure to testify is violative of the privilege against self-incrimination guaranteed by the Fifth Amendment to the United States Constitution.

24. The Administrative Law Judge abused his discretion by denying the Union's request for a continuance of the hearing pending the trial level disposition of the criminal charges which were pending against a number of Union members and agents and which arose out of the same occurrences as were alleged in the

complaint and as to which the General Counsel offered testimony. (Tr. pp. 247-255, 368-369) By denying the continuance, the Administrative Law Judge denied the Union an opportunity to present a defense to the charges herein. In order to rebut testimony alleging misconduct by Kevin Doyle, Thomas Doyle, Myrtle Nicholson, Mary Hill, Cora Bennett, Merilee Millstein and Mary Fanueff, the Union would have been obliged to compel the aforesaid individuals, all facing criminal charges, to testify, against the advice of their criminal attorney, and to thereby waive their privilege against self-incrimination. Absent this testimony, the Union was denied the ability to present an adequate defense.

25. The Administrative Law Judge's recommended order requiring the Union to cease and desist from certain conduct and to post and mail the recommended annexed notice is improper inasmuch as it is not supported by the record; furthermore, the proposed notice is improper and overbroad in that it is predicated upon an assumption that the Union has committed certain unfair labor practices, which is not supported by the record, and in that it extends to employees of other employers who are not a part of the instant proceeding.

Respectfully submitted,

SIPSER, WEINSTOCK, HARPER, DORN
& LEIBOWITZ

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MFJ

227 NLRB No. 250

D--1927
Southport, Conn.

FILE MP
Exec. Sec. 0

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

DISTRICT 1199, NATIONAL UNION
OF HOSPITAL HEALTH CARE
EMPLOYEES, a DIVISION OF RWDSU,
AFL--CIO

FILE IN
FORMAL FILE
B

Jan. 31, 1977

Case 2--CB--6125

and

SOUTHPORT MANOR CONVALESCENT
CENTER, INC.

DECISION AND ORDER

On October 13, 1976, Administrative Law Judge Peter Donnelly issued the attached Decision in this proceeding. Thereafter, counsel for Respondent and counsel for the General Counsel filed exceptions and supporting briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings,[1/]

[1/] The Administrative Law Judge acted within the scope of his discretion in denying Respondent's request for a continuance of the hearing pending the disposition of criminal charges against certain prospective witnesses. Respondent alleges that the denial of the continuance prevented it from being able to present a full defense to the unfair labor practice charges. In its brief, Respondent, in effect, argues that the decision whether or not to call these witnesses was no more than a Hobson's choice. Respondent's position is that these witnesses would be forced to waive their privilege against self-incrimination if they testified, a sacrifice Respondent could not ask of its
(continued)

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findings,[2] and conclusions[3] of the Administrative Law Judge and to adopt his recommended Order.[4]

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, District 1199, National Union of Hospital Health Care Employees, a Division of RWDSU, AFL--CIO, its officers, agents, successors, and assigns, shall take the action

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[1] agents and members. Respondent errs in its argument in two respects, procedurally and substantively. First, Respondent has failed to make use of the procedures the Board has promulgated regarding witnesses whom it believes will refuse to testify on the basis of the privilege against self-incrimination. Sec. 102.31, Rules and Regulations and Statements of Procedure, Series 8, as amended. In disregarding these rules, Respondent has improperly anticipated the defenses arguably available to its witnesses if they should refuse to testify. Furthermore, it is clear that witnesses called by Respondent would not be required to waive their privilege against self-incrimination, since any witness asserting such a right will not be forced to testify, absent a grant of immunity, which would protect the witness from the use of such testimony in any criminal case. 18 U.S.C. §6001, et seq. (1976 supp.).

[2] The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951).

[3] As the Administrative Law Judge inadvertently concluded that certain action by picket Cora Bennett on December 4, 1975, constitutes 8(a)(1) misconduct, we hereby find that such misconduct constitutes an 8(b)(1)(A) violation.

[4] Respondent excepted to what it alleges is an overbroad cease-and-desist order; since that order purportedly is phrased so as to protect employees of any other employer from Sec. 7 violations committed by Respondent. While the recommended Order does not refer to employees of any other employer, the attached notice does include such a clause. Since Respondent was not found to have committed violations against the employees of any other employer, we find merit in Respondent's exception and we shall modify the notice so that it will conform to the language of the recommended Order. Communication Workers of America, AFL--CIO and Local No. 4372 [Ohio Consolidated Telephone Co.] v. N.L.R.B., 362 U.S. 479 (1960).

set forth in the said recommended Order, except that the attached notice is substituted for the Administrative Law Judge's notice.

Dated, Washington, D.C. January 31, 1977

Betty Southard Murphy, Chairman

John H. Fanning, Member

Howard Jenkins Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

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D--1927

APPENDIX

NOTICE TO EMPLOYEES AND MEMBERS

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT threaten to cause harm to employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT threaten to kill employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT assault employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT block ingress to and egress from its premises employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT strike the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT threaten to cause damage to the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT throw liquids or spit on the automobiles of employees of Southport Manor Convalescent Center, Inc.

WE WILL NOT in any like or related manner restrain or coerce employees of Southport Manor Convalescent Center, Inc., in the exercise of the rights guaranteed them by Section 7 of the Act.

DISTRICT 1199, NATIONAL UNION
OF HOSPITAL HEALTH CARE EMPLOYEES,
A DIVISION OF RWDSU, AFL--CIO
(Labor Organization)

Dated ____________________ By ______________________________________
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 36th Floor, Federal Building, 26 Federal Plaza, New York, New York 10007, Telephone 212--264--0360.

PROCEEDINGS

11:30 a.m.

JUDGE DONNELLY: Okay, the hearing will be in order. This is a formal hearing before the National Labor Relations Board in the matter of District 1199, National Union of Hospital Health Care Employees, A Division of R.W.D.S.U., AFL/CIO and Southport Manor Convalescent Center, Inc., and the Case Number is 2-CB-6125.

The Administrative Law Judge conducting the hearing is Peter E. Donnelly. That's D-o-n-n-e-l-l-y.

At this time, I'd like for the parties to state their appearances for the record.

MR. BIBLOWITZ: For the General Counsel, Joel E. Biblowitz.

JUDGE DONNELLY: Mr. Green, are you going to make an appearance?

MR. GREEN: No.

MS. ERENSTEIN: District 1199, Sipser, Weinstock, Harper, Dorn, and Leiberwitz, by Vicki Erenstein.

JUDGE DONNELLY: Okay. Are there any other appearances?

(No response.)

JUDGE DONNELLY: Let the record indicate no response.

If, at any time -- with respect to the matter of settlement, I make the observation that we spent approximately commerce factors.

JUDGE DONNELLY: Right. Right.

MS. ERENSTEIN: I'm not aware of that.

JUDGE DONNELLY: Okay. And, well, let me go back to the original complaint andnotice of hearing.

While I'm not particularly concerned about number one, although there was no -- although the answer, in the form it was filed contained no response to allegation number one, obviously, you're aware -- I assume you're aware of the answers to which -- allegations to which there is no response deemed to be admitted. That being the case, that will be the situation with respect to allegation in paragraph 1, -- Of course, we have the formal papers in evidence so that's no big problem.

There was no response in the answer either and I'd like to just call your attention to this to make sure there has been no oversight. There was no answer with respect to 2(a), no answer with respect to 2(b). With respect to 2(c), the allegation is there without knowledge. With respect to 2(d), that the union is without knowledge. With respect to 3, they're there without knowledge. With respect to 4, there was no answer. And that is the labor organization allegation.

Are you staying with me on it?

MR. BIBLOWITZ: Yes, sir.

JUDGE DONNELLY: With respect to 5, we have an admission that the three individuals named in paragraph 5, are organizers but a denial that they are agents, of the union, so, obviously, that having been denied, you'll put your proof on that, unless we can reach some kind of a stipulation.

As to number 6, there was no answer.

As to 7(a), there was no answer. As to 7(b), there was no answer. As to -- and as to all of the allegations of 8 -- all of the allegations of paragraph 8 are denied, as are the additional allegations to paragraph 8 in the second order amending the complaint.

So, to the extent that -- in view of the answer I just want to make sure that General Counsel understands those allegations which have been denied. Those allegations which have been not answered, and those allegations to which the union has claimed that it is without knowledge, so that you understand what your burden is as far as the case is concerned.

MR. BIBLOWITZ: Right. Your Honor, may I just say one thing there --

JUDGE DONNELLY: Yes.

MR. BIBLOWITZ: In regard to paragraph 2(d) --

JUDGE DONNELLY: Yes.

MR. BIBLOWITZ: In the first order, amending complaint dated March 25th, paragraph 3, we amended that to reflect the $50,000 figure rather than the typographical error of $30,000.

JUDGE DONNELLY: Right.

MR. BIBLOWITZ: And since there was no answer to that order amending complaint, I assume, therefore, that that paragraph 2(d) was therefore admitted.

JUDGE DONNELLY: Well, that may be the legal effect -- I'll listen to the Union's position on it.

MS. ERENSTEIN: We would admit it.

JUDGE DONNELLY: Well, there may be a lot of them here, that -- you know, that can and perhaps after some discussion, can be conceded.

Would that also be true -- well, let's see, perhaps you could look over the whole order amending complaint, or the one dated the 25th of March, 1976.

MS. ERENSTEIN: Well, it seems to me that's the only thing -- from what I gather we gave no answer regarding paragraph 2(a) to begin with.

JUDGE DONNELLY: Right.

MS. ERENSTEIN: So that's the only thing that --

MR. BIBLOWITZ: Yeah, 2(c) would be the area we would appreciate --

JUDGE DONNELLY: Yeah, 2(c) --

MR. BIBLOWITZ: -- a stipulation on to save time.

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JUDGE DONNELLY: Well, 2(c) -- that has the direct inflow/outflow allegations with (d), too. What's your position on it?

MS. ERENSTEIN: I have no --

JUDGE DONNELLY: What?

MS. ERENSTEIN: Obviously, I have no personal knowledge of this.

JUDGE DONNELLY: Well, let's go off the record for a minute. And see what we can do here, because these -- Off the record.

(Discussion off the record.)

JUDGE DONNELLY: Back on the record now.

All right, it's my understanding and let me make this statement and see if it's acceptable to the parties. With respect to the allegations of 2(a), which is actually the change in the name of the Employer to reflect the corporate existence.

It's my understanding that the union is now willing to admit that allegation or that amended allegation of the complaint. Is that correct?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: All right. And now with respect -- and the same with respect to (b) -- excuse now -- all right, let's go on to 2(a). All right, we just finished 2(a). All right. 2(b) to which there was no answer. Are you willing to -- in the same sense -- accept that in the same sense. The admission as to (b). That's really a --

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Okay?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Excuse me?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: (c), I understand we have now an admission as to 2(c). And with respect to (d), let me get the information and perhaps hopefully, we'll reach a stipulation with respect to that after we have the information. Is that correct, Counselor?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Okay. All right, now, 3, which is the commerce allegation -- what about paragraph 3 now. Can we get an admission to that? Yes?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Okay. That's actually a conclusionary allegation.

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: All right, 4, there was no answer. 5, now these individuals were -- the answer admits that they were organizers but denies that they were agents and acting on behalf of the union. Does the union intend to persist in that position?

JUDGE DONNELLY: Back on the record. Let's have a witness.

MR. BIBLOWITZ: Anne Meyer, please.

JUDGE DONNELLY: Would you raise your right hand, please.

Whereupon,

ANNE MEYER

was called as a witness by and on behalf of the General Counsel, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Okay, sit down, and tell the Reporter your name and address?

THE WITNESS: Anne Meyer, 218 Verna Hill Road, Fairfield.

HEARING REPORTER: Would you spell your last name, please.

THE WITNESS: M-e-y-e-r. A-n-n-e.

DIRECT EXAMINATION

Q (By Mr. Biblowitz) Miss Meyer, you're associated with Southport Manor?

A Yes, I am.

Q In what capacity?

A I'm the Administrator.

Q How long have you been associated with Southport Manor?

A Approximately two years now.

Q Over the last year or so, have you been involved in any negotiations with District 1199?

A Yes. On the onset of the -- the beginning of the new contract, since the beginning of August, I've been involved with negotiations ever since then.

Q And while you were at these negotiations, who was doing the negotiating on behalf of District 1199?

A Kevin and Tom Doyle.

Q Anybody else?

A Not until the after the strike took effect and then Jerry Brown.

Q I see.

A So for approximately seven months, Kevin and Tom Doyle.

JUDGE DONNELLY: Who are they? And who is Brown?

THE WITNESS: Jerry Brown is Vice President of 1199. And Kevin and Tom Doyle, I assume, were organizers and agents. To negotiate the contract.

JUDGE DONNELLY: Okay.

Q (By Mr. Biblowitz) Did you continue working during the strike?

A Yes, I did.

JUDGE DONNELLY: Just let me ask you this.

THE WITNESS: All right.

EXAMINATION

Q (By Judge Donnelly) Had you had any contractual relationship with 1199 before the last negotiations? Did you have a contract before the last negotiations?

A Yes.

Q How long have you had contractual relations with 1199?

A Two years.

Q So it was the first contract and this was the second contract?

A Right.

Q Was it a two-year contract?

A It was a two-year contract.

Q What were the dates of the contract?

A 1973 was the first contract and 1974 was a reopener. And 1975 was the beginning of the second contract.

Q All right, the contract ran, do you know, from when to when?

A '73 to '75.

Q Do you know the months?

A September 31st, 1975.

Q That's when the contract expired?

A Yes.

Q Okay, when did negotiations for a new contract begin?

A Approximately August 18, 1975.

Q Okay.

JUDGE DONNELLY: Proceed.

FURTHER DIRECT EXAMINATION

Q (By Mr. Biblowitz) During the period of this first --

JUDGE DONNELLY: Do you have a copy of the contract?

MR. BIBLOWITZ: I don't. Counselor, do you?

JUDGE DONNELLY: All right.

Q (By Mr. Biblowitz) Miss Meyer, during the period of the first contract, who presented grievances on behalf of District 1199?

A Okay, when I was there, Tom Doyle and Kevin Doyle presented grievances.

Q I call your attention, now, to the middle of February of 1976. At that time, did any incident occur involving yourself and pickets?

A Yes, it did.

Q Could you tell us when -- the date and the time and the place?

A Well, on that day the --

Q What day was that?

A February 6th --

Q Can you tell me --

A I think it's approximately February 6th --

MS. ERENSTEIN: At this time, I'm going to object to any testimony along these lines. There's nothing in the

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complaint about this. We have no notice on this.

MR. BIBLOWITZ: Yes, there is.

JUDGE DONNELLY: Now, what allegation of the complaint -- you know, this is the last one. The order amending the complaint dated 13 April, 1976. And the allegation there is on or about February 16, 17, 17, 19 --

MS. ERENSTEIN: Yes, that's right.

JUDGE DONNELLY: Yes.

MR. BIBLOWITZ: We're referring to L in the amended complaint.

JUDGE DONNELLY: Okay, and what's the date that you just testified to.

THE WITNESS: I think it's February 16.

MS. ERENSTEIN: But you did say February 6th when you first testified.

THE WITNESS: 6th. Well, it's --

MS. ERENSTEIN: That's the basis on which I made my objection.

THE WITNESS: Okay.

MS. ERENSTEIN: You didn't have any instrument at that time.

THE WITNESS: I --

JUDGE DONNELLY: Let's get, right now, your best recollection as to the date that you're testifying to.

THE WITNESS: It would be the first two weeks in

February. I mean, you know, I can't give an exact --

JUDGE DONNELLY: All right, let's go on.

THE WITNESS: There was a date -- the date can be exacted from the Police, because it was the second day that they had removed --

JUDGE DONNELLY: Can you give us an approximate date?

THE WITNESS: It was a Tuesday. It was the 16th. The 14th?

JUDGE DONNELLY: Well, was it approximately that date?

THE WITNESS: Yes, approximately.

JUDGE DONNELLY: All right, let's go on.

Q (By Mr. Biblowitz) Could you tell us the time of the day that occurred and what occurred?

A It was around 12:45. And due to the police being removed from the line -- we were -- there were glass and nails and it was reported to us --

MS. ERENSTEIN: I'm going to object. I want to object.

JUDGE DONNELLY: Why?

MS. ERENSTEIN: That's not proper testimony. Due to the police being there, there was glass and nails.

THE WITNESS: The police being removed.

MS. ERENSTEIN: There's no foundation for that. Conclusions --

JUDGE DONNELLY: Well, I think she should testify as to what happened. I don't --

MS. ERENSTEIN: There's no foundation.

JUDGE DONNELLY: I'm not going to tell you how to elicit the information, but just have her testify as to what happened, and get to the allegations of the complaint.

Q (By Mr. Biblowitz) Just tell us what you -- what time it was that you first heard of this incident, and what occurred. Yes, just tell us what occurred.

A About 12:45. A visitor complained there was glass and nails in the driveway. Previously, I had sent down two guys to clean up glass and nails, so at this time, I went down with one of the men to clean up the glass and nails at approximately 12:45.

At this time, the police were summoned and a policeman was present. The person with me was Barry Jackson. We went down to clean up the driveway. And immediately --

MS. ERENSTEIN: Excuse me, could you please just testify a little slower.

THE WITNESS: Okay.

MS. ERENSTEIN: I'm having a hard time understanding you.

THE WITNESS: At that time, Kevin Doyle started in a southern accent, very derogatory statements were directed towards Barry, who is black. And they were saying, "Yes, Miss Meyer. Can I have your garbage, Miss Meyer. Can I have your leavings, Miss Meyer." And it was very, very bad.

At this time, the --

JUDGE DONNELLY: Let me say this, I don't want any sensitivity about language in this case. I want to know exactly what was said by everybody, so just make the general observations. I don't want anybody to be reluctant to testify as to exactly what was said.

Just go ahead.

THE WITNESS: Okay. Well, he went on in a Southern drawl and said, "Mrs. Meyer, can I lick your ass? Miss Meyer, can I lick your shoes? Miss Meyer, this ain't cotton-picking country." It was very -- I don't know how much you want me to go into.

Q (By Mr. Biblowitz) What was Mr. Jackson doing at that time?

A He was sweeping up the glass and the nails. And, at this time, the police who had been there watching us sweeping up the glass and nails, were called away. And, at that point, Kevin Doyle motioned to the other picketers, to cross the barricades, which they proceeded to do. And he kept coming towards Barry and saying, saying derogatory statements over and over again. Swearing -- you mother-f-- you this, you that.

JUDGE DONNELLY: Now, just say the words.

THE WITNESS: Well-- you Mother-fucker. You black son of a bitch. And there was present --

JUDGE DONNELLY: Now, you talked about barricades.

THE WITNESS: Yes.

JUDGE DONNELLY: Where were the barricades?

THE WITNESS: The barricades were placed ten feet up from the road which is considered town property, where they are allowed to picket. Beyond that is Southport Manor property

JUDGE DONNELLY: Yes.

THE WITNESS: And so when Kevin moved past the barricades, he was trespassing at that time. He continued to move in motion and he continued to attack Barry Jackson verbally.

MS. ERENSTEIN: I object both to the characterization of trespassing which is a legal characterization and to attack.

JUDGE DONNELLY: Now, I don't --

MS. ERENSTEIN: There's no testimony about an attack yet.

JUDGE DONNELLY: All right.

THE WITNESS: Well, verbally --

JUDGE DONNELLY: To the extent -- she said verbally. She's talking about the exchange. I'll overrule the objection. Were there others who crossed the barricade?

THE WITNESS: Yes.

JUDGE DONNELLY: At the same time?

THE WITNESS: There were three others. Mary Faneuff, Mrytle Nicholson, and Annie Melvin. And they proceeded up the driveway. At that point, I did say to Kevin Doyle that he was on Southport Manor property. And to get off. And to go back. And he didn't answer me. He just kept on screaming at Barry. And moving closer to Barry. And I went up to Barry and tried to -- started to move him back. I, you know, figured that this was getting into a bad situation.

And, at the same time, Kevin continued to walk and motion the pickets to come up. Now, at this time, Annie Melvin, one of the pickets, did go back behind the barricades. The other two proceeded with Kevin Doyle out the driveway.

And, again, I asked them to remove themselves from the driveway. Again, there was no answer. And approximately -- he achieved about thirty-five to forty-five yards up the driveway and he was getting closer and closer to Barry. He was motioning and moving, so that I thought he was trying to antagonize a fight.

At that point, as I said, the driveway had been swept. But there was something like a milk carton, which he kicked towards Barry and he threw an empty coke can at Barry. It just barely missed him. At that point, we got in the car and we went back to the Manor.

JUDGE DONNELLY: How far away was he when he threw the coke can?

THE WITNESS: He was about --

JUDGE DONNELLY: From Barry -- from Jackson?

THE WITNESS: Six feet.

JUDGE DONNELLY: Okay.

MR. BIBLOWITZ: I have nothing further.

JUDGE DONNELLY: All right.

CROSS EXAMINATION

Q (By Ms. Erenstein) Did he hit him?

A No, but he almost did.

Q He missed from six feet?

A He dropped it and he kicked it.

Q Oh, he dropped it, and he didn't throw it?

A He dropped it and kicked it toward him.

Q And he missed?

A He missed him.

Q How did you know it was empty?

A Because of the sound when it hit the ground.

Q Where were you?

A I was right there.

Q I see.

JUDGE DONNELLY: In other words, he didn't throw the can then. I want to know --

THE WITNESS: Well, he threw the can and --

JUDGE DONNELLY: Wait and --

THE WITNESS: And kicked it --

JUDGE DONNELLY: He threw the can on the ground and kicked it. But he didn't throw the can at Jackson?

MS. ERENSTEIN: That's what she said.

JUDGE DONNELLY: This is what I'm asking you. Did he throw the can at Jackson or did he throw the can on the ground and kick it at Jackson?

THE WITNESS: He threw it on the ground and kicked it. It wasn't even -- it was like a drop kick.

JUDGE DONNELLY: Yes.

THE WITNESS: You throw it and before it hits the ground you kick it.

JUDGE DONNELLY: Right.

THE WITNESS: And then when it hit the ground, the sound of the tin -- that's how you know it's empty.

JUDGE DONNELLY: Okay. Go ahead.

Q (By Ms. Erenstein) And he missed?

A And he missed.

Q And what kind of milk carton was it that he kicked?

A I don't know. It was a large crushed kind of carton.

Q Made out of what material?

A Paper. It looked like paper. And it felt like paper.

Q Where was it when he kicked it? In relation to Barry

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Jackson.

A At that point, maybe seven feet. You know, he kept on progressing closer and closer. And that went first.

Q Where did the milk carton come from?

A I don't know.

Q Did he have it in his hand?

A He must have had it on him because it wasn't in the driveway. But --

Q How do you know?

A Because the driveway had just been swept.

Q Well, then why was the milk carton there?

A It wasn't there.

Q He was carrying an empty milk carton, crushed up, and a coke can, and he dropped both of them and kicked both of them -- two drop kicks in a row?

A Two drop kicks in a row.

Q Did he have any other objects on him that he might have kicked?

A No, because when he threw the coke can, that was it.

Q I see.

A We got in the car and we left.

Q Were you watching him for some time?

A Pardon me?

Q Were you watching him this whole time?

A Watching who?

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Q Kevin Doyle.

A I was watching him, yes.

Q Where was the milk carton to begin with?

A The first time I saw it was when he dropped it from his hand.

Q Okay. You saw him before he dropped it from his hand, though, correct? You were watching Kevin all the time?

A Yes. Well, I didn't watch him the whole time. I was watching the whole --

Q Okay, and about how long after that did he drop the coke can?

A About six seconds.

Q Did he have that --

A He could have had it in his pocket. I don't know.

Q I see.

A I know it came from his hand and there wasn't anything on the drive, because the drive had just been swept.

Q What did you do with them?

A What did I do with who?

Q The coke can and the milk can?

A We got in the car and we left. We thought -- because I thought that there was going to be a fight. There's no sense in getting into an altercation.

Q Are they still there?

A No, apparently they were removed after.

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Q Are you sure they aren't still there?

MR. BIBLOWITZ: Your Honor, I object to this.

JUDGE DONNELLY: I didn't hear the question. What was the question?

MS. ERENSTEIN: I asked her what she did with the coke can and the carton, and she said --

JUDGE DONNELLY: You asked her what she did with it?

MS. ERENSTEIN: Yeah.

MR. BIBLOWITZ: But she asked --

JUDGE DONNELLY: There's no testimony that she did anything with it. That I can recall, is there?

MR. BIBLOWITZ: No.

MS. ERENSTEIN: I asked her if she picked them up.

THE WITNESS: No, he was right there. He -- we got into the car and we left.

JUDGE DONNELLY: Why don't you ask her, because I'm not satisfied that she's testified that she had coke cans in her possession at any time.

MS. ERENSTEIN: She said she did.

JUDGE DONNELLY: Just ask her, Counsel. Because I don't recall that testimony. Did you pick up either --

THE WITNESS: No.

JUDGE DONNELLY: -- the coke can or the container of milk -- milk container?

THE WITNESS: No, I didn't.

JUDGE DONNELLY: You never had them in your hand at any time?

THE WITNESS: No.

JUDGE DONNELLY: Is that right?

THE WITNESS: Right.

JUDGE DONNELLY: Okay, let's go.

Q (By Ms. Erenstein) Did Barry ever say anything during this whole period of time?

A No, amazingly, he was very quiet. He -- I think --

Q Just answer -- yes or no.

A I think that he might have said, "Shut up."

JUDGE DONNELLY: She doesn't have to -- wait a minute. You don't have to answer yes or no.

Q (By Ms. Erenstein) He might have said, "Shut up"?

A He might have said, "Shut up."

Q I see.

A The majority of the time, he was quiet. He didn't say anything.

Q The three persons that you mentioned, Faneuff, Nicholson, and Melvin, what race are they?

A Faneuff is white. Nicholson is black. And Annie Melvin is black. Neither one of them attacked Barry verbally in the same way that Kevin Doyle did.

Q Do you want to say anything else before I ask you the next question?

A No.

MR. BIBLOWITZ: I object.

JUDGE DONNELLY: Overruled, go ahead.

Q (By Ms. Erenstein) Didn't Barry first call Mrytle Nicholson a whore, isn't that how this thing started? Didn't she call him a scab and an Uncle Tom and didn't he respond by calling her a whore and a prostitute? Isn't that what happened? Isn't that how it started?

A I -- he could have said something. The first time he went down which -- it was not in my presence.

Q I'm talking about in your presence.

A No. Not to my knowledge.

Q Did you hear any of them calling him a scab or an Uncle Tom?

A No.

Q Did you hear Myrtle Nicholson call him that?

A No.

Q Did you hear them say anything?

A Very little. They were saying -- they were talking to me most of the time. They didn't say anything to him.

Q They didn't say anything to him?

A If they were saying anything, then Kevin Doyle's words overrode everything, because that's what I heard.

Q I see. And you didn't hear him call Myrtle Nicholson a whole or a prostitute?

A No.

Q Did you hear -- well, you've already denied that you heard it. Did you hear Myrtle Nicholson say to him, "So's your mother."

A No, I cannot -- no, because as far as I can remember, Myrtle Nicholson and Annie Melvin were quiet.

Q Who else was there?

A Well --

Q There were other picketers present, weren't they?

A Yes, there were.

Q Who were they?

A I can't give you exact names. I mean, I couldn't say exactly who was there that day besides those people.

Q There were quite a few people present, weren't there?

A Yeah.

Q Who was --

JUDGE DONNELLY: Present where -- because this is a continuing incident.

MS. ERENSTEIN: Yes.

Q (By Ms. Erenstein) How long did this whole thing last, by the way?

A Fifteen minutes, 20 minutes.

Q Where was the glass in relation to the bottom of the driveway where the barricades were?

A I'd say about 10 yards up. I don't know.

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Q From the end of the driveway?

A From where the barricades are.

JUDGE DONNELLY: Towards the --

THE WITNESS: Towards the home.

JUDGE DONNELLY: The Home?

THE WITNESS: Right. Ten and over --

Q (By Ms. Erenstein) Did Doyle or any of the picketers ever touch you or Barry during this time?

A No.

Q Now, at what point in this episode, did the police leave?

A Right in the beginning. I'd say after the first five minutes. The policeman was called away. No, it's maybe ten minutes. Ten minutes. There was another ten minutes of altercation with -- after he left.

Q So they were present for the first ten minutes of the altercation, as you call it, and then they left?

JUDGE DONNELLY: Well, now, at what point in this incident, did they leave? What was going on when they left?

THE WITNESS: Just the verbal abuse. No crossing over the barricades.

JUDGE DONNELLY: Doyle hadn't come over the barricades at the time the police left?

THE WITNESS: Only after the police left did Doyle proceed over the barricades.

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JUDGE DONNELLY: All right.

Q (By Ms. Erenstein) Where did they go?

A They were called away.

MR. BIBLOWITZ: I object. There's no way of knowing where they were --

THE WITNESS: At that point --

JUDGE DONNELLY: She may know. Overruled. If she does, she can testify. She may have seen them go. I don't know.

THE WITNESS: Police? Where did they go?

Q (By Ms. Erenstein) Yes.

A The police, at that time, were taken away from the line because of a shortage of manpower on the police force and were called to another incident, I think it was an ambulance call.

JUDGE DONNELLY: Were they there in a car? A police car?

THE WITNESS: Yes.

JUDGE DONNELLY: How many of them?

THE WITNESS: Only one.

JUDGE DONNELLY: Just one in a police car?

THE WITNESS: Right.

JUDGE DONNELLY: Okay.

THE WITNESS: And he was summoned by the Manor, because of the glass.

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Q (By Ms. Erenstein) Did you see someone putting glass on the driveway?

A No, I did not.

Q Now, you're in the -- you have hired policemen, during the course of the strike, haven't you, to work in a private capacity on off-duty hours?

A Yes.

Q Are these members of the Fairfield Police Force?

A Some of them. Some are special duty. Some are off-duty police.

Q When you say special duty, what do you mean?

A A special duty policeman can be a mechanic during the day, and take a special police guard job at night.

Q I see. Now, which off-duty policemen from the Fairfield Police Department did you hire?

A We don't hire specific policemen. It is given and they sign up for it. For the shift.

Q Do you know the names of any of the people who work there?

A Who have worked for us?

Q Sure.

JUDGE DONNELLY: Well, which ones are you talking about? Are you talking about the people who also are Fairfield County policemen?

MS. ERENSTEIN: Yes, sir.

JUDGE DONNELLY: And who have worked out there as guards?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: The names of those people?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: [redacted]?

THE WITNESS: Ofi[redacted]errify.

Q (By Ms. Erenstein) How do you spell that?

A T-e-r-i-f-y.

Q I see.

A Fumindinci. Is that -- and they only work between 8 o'clock at night and 8 o'clock in the morning.

Q Yes.

A And so - and then the schedule and a lot of the off duties like special --

JUDGE DONNELLY: She's only asking you if you know the names. So those whose names that you recall, tell her those names and those whose names -- and if those are the only names which you can recall, then that's all that you can recall. That's all she wants.

THE WITNESS: I don't know Ernie's last name.

JUDGE DONNELLY: Let me make this observation. I don't want to go too far afield from the allegation of the complaint that the testimony is supposed to run to. I'm having difficulty in my own mind trying to determine why questions

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are being asked about the names of off-duty Fairfield policemen who may have worked there, with respect to the allegations that she's testifying to. Maybe you can enlighten me. Would you like to enlighten me?

MS. ERENSTEIN: pardon?

JUDGE DONNELLY: Would you like to enlighten me?

MS. ERENSTEIN: She has testified that there were policemen who were called to the scene.

JUDGE DONNELLY: Right.

MS. ERENSTEIN: Who was that?

THE WITNESS: I don't know. He wasn't one that -- I don't know. I really don't know his name.

Q (By Ms. Erenstein) All right.

A I can picture him, but I can't think of his name. There's a lot of Fairfield police. I can't remember everybody's name.

Q How long is the driveway?

A About 300 yards.

JUDGE DONNELLY: From where to where?

THE WITNESS: From the foot of the driveway to the building itself.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) And how did you get to the spot in question?

A In the car.

Q To the spot where the sweeping occurred?

A Yes.

Q In a car? Where was the car?

A The car was parked approximately 50 yards from the foot of the hill. Or the foot of the entrance, 50 yards up.

Q And how far from the glass?

A 20 yards.

Q And how far is the barricade from the end of the driveway?

A Between 10 and 15 feet.

Q When did Jerry Brown start negotiating?

A Approximately December 5th, I think. I can't be definite, but that's -- that that's the exact date. But the first negotiating session after the strike.

Q Who was present?

A Jerry Brown, myself, Mr. Giovenetti, who is my attorney. Mrs. Combley. I think Mary Hill.

Q Have there been meetings since then?

A Yes.

Q Were the same people present?

A No. It varies.

Q Were any additional people present?

A Sometimes. Sometimes fewer, sometimes less. I mean, sometimes more. You know, it depends.

JUDGE DONNELLY: How many people -- do you have any people who have been there at every session? Union people?

THE WITNESS: How many union people?

JUDGE DONNELLY: Yes. Have been there -- if there have been any --

THE WITNESS: Yes.

JUDGE DONNELLY: -- who have attended every session. Negotiating session.

THE WITNESS: I really wouldn't know.

JUDGE DONNELLY: You don't know?

THE WITNESS: No.

Q (By Ms. Erenstein) Has Mr. Brown been at all these sessions?

A Yes.

JUDGE DONNELLY: Well, then you can't testify -- that --

THE WITNESS: Well, since the strike began.

JUDGE DONNELLY: That's what she's asking you about. Since the strike began.

THE WITNESS: Jerry Brown.

JUDGE DONNELLY: He's been to all of them since the strike began?

THE WITNESS: Yes.

Q (By Ms. Erenstein) Who else?

A Who else?

Q Yes.

A I don't know. Maybe Marguerita. I don't know if she has been -- I don't really know how many of the employees have been there at every session. I mean, I can't answer that.

Q Jerry Brown has been the union representative?

A Since the strike.

Q All right.

MS. ERENSTEIN: I have no further questions.

JUDGE DONNELLY: Mr. Biblowitz?

MR. BIBLOWITZ: Yes.

JUDGE DONNELLY: Go ahead.

REDIRECT EXAMINATION

Q (By Mr. Biblowitz) When were the barricades first set up?

A December 3rd.

Q 1975?

A 1975.

Q What other employees have participated in negotiations, if you remember? What are the names of the employees?

A Mary Faneuff, Mary Hill, -- now, since the strike --

Q Both.

A Well, it had varied because one time, Miss Langston would be there. Another time Mary Hill would be there. And --

Q Was Myrtle Nicholson ever there?

A She was there, but she wasn't at all of them.

MR. BIBLOWITZ: I have nothing further, Your Honor.

JUDGE DONNELLY: Ms. Erenstein?

MS. ERENSTEIN: Yes.

RECROSS EXAMINATION

Q (By Ms. Erenstein) When was Myrtle Nicholson there?

A She was there in -- at the onset of the negotiations.

Q That would be in August?

A Yes.

Q When was she there?

A She was there off and on during August and September, October, November -- on and off, you know -- she'd be at one meeting, maybe she wouldn't be at the next.

Q This was prior to the strike?

A Yeah, and even after the strike, Mary Hill was at, I think, at least two of the meetings.

Q When were they?

A Maybe December 5th and another one. January, I think, 13th.

Q And Faneuff?

A She was there at some of them. And some of them -- like, one meeting, I think it was the first meeting, December 5th, she came in. She stayed for about ten minutes and left. So --

MS. ERENSTEIN: Nothing further.

JUDGE DONNELLY: I just have a few questions.

THE WITNESS: Yes.

EXAMINATION

Q (By Judge Donnelly) Do you know whether Kevin Doyle and Thomas Doyle are related, to your knowledge?

A They are related.

Q What are they?

A They're brothers.

JUDGE DONNELLY: Nothing further.

MR. BIBLOWITZ: Nothing further.

JUDGE DONNELLY: You're excused.

THE WITNESS: Thank you.

(The witness was excused.)

JUDGE DONNELLY: Next witness.

MR. BIBLOWITZ: Rafael Garcia.

JUDGE DONNELLY: Would you step up here, Mr. Garcia. And raise your right hand.

Whereupon,

RAFAEL GARCIA

was called as a witness by and on behalf of the General Counsel, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Okay, sit down, and tell the Reporter your name and your address?

THE WITNESS: My name is Rafael Garcia. Rafael, yes. R-a-f-a-e-l. Yes, Rafael, f-a-e-l.

DIRECT EXAMINATION

Q (By Mr. Biblowitz) Could you give me your address?

A 285 Bruce Avenue, Fairfield.

Q All right.

JUDGE DONNELLY: What's your address again? Just tell your address again. So that the lawyer can hear.

THE WITNESS: 285 Bruce Avenue.

JUDGE DONNELLY: Bruce?

THE WITNESS: Bruce. B-r-u-c-e.

Q (By Mr. Biblowitz) Mr. Garcia, where are you employed?

A Southport Manor.

Q How long have you been employed there?

A 6 years.

Q What job do you have there?

A Supervisor and chef.

Q Did you go to work on December 17th, 1975?

A Yes.

Q What time was that?

A What time did I go?

Q What time did you go to work?

A What did I leave the job?

Q Yes.

A Between 1 and 1:30.

Q Did anything occur that day when you left work?

A When I left work?

Q Yes, on the 17th.

A The picket lines --

MS. ERENSTEIN: Objection. He's -- there's nothing in the complaint about December 17th.

JUDGE DONNELLY: Well, you know, bear in mind that these are on or about allegations.

MS. ERENSTEIN: This is General Counsel starting out -- he apparently is aware of an incident which was not specified. The General Counsel is aware of the date and he presumably could --

MR. BIBLOWITZ: Your Honor, we have -- in 8(h), we have various dates throughout the month of December, 1975.

JUDGE DONNELLY: Yes. I'm interested in seeing -- well -- okay.

MR. BIBLOWITZ: Okay?

JUDGE DONNELLY: Yes, go ahead.

Q (By Mr. Biblowitz) Would you tell us what occurred, if anything on that date, December 17th.

A I leave after 1 o'clock. Driving with my wife.

JUDGE DONNELLY: Excuse me, just a minute. What is it?

MS. ERENSTEIN: Could we ask him if it's a.m., or p.m.?

JUDGE DONNELLY: Yes.

THE WITNESS: P.m.

Q (By Mr. Biblowitz) Okay.

A I drive my own car with my wife. Go home.

Q You're going home?

A Yes.

JUDGE DONNELLY: Your wife -- excuse me, your wife was in the car with you?

THE WITNESS: Yes. Yes.

JUDGE DONNELLY: Excuse me, go ahead.

THE WITNESS: In the picket line, I stopped. Doyle -- was that it --

MS. ERENSTEIN: Excuse me --

THE WITNESS: Union 1199, he called me, Mr. Garcia -- Garcia -- he called me -- marico --

Q (By Mr. Biblowitz) What does that mean?

A In English --

JUDGE DONNELLY: Do you know how to spell it?

THE WITNESS: He stopped -- stopped --

JUDGE DONNELLY: Can you spell it?

THE WITNESS: Spell it?

JUDGE DONNELLY: Yes.

THE WITNESS: Marico. M-a-r-i-c-o.

JUDGE DONNELLY: Okay.

THE WITNESS: He is stopping my front of car, left side,

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and all the time he did that he say, "Marico, marico." "Marico," and do that. Now, another lady in front stopped she said, "No." I don't know the name. White color. Here on left side.

And the lady got out and -- before I move the car, I have a letter. He's saying, "Marico, garbage," and everything.

MS. ERENSTEIN: I'm sorry, I heard after marico. What else did you say?

JUDGE DONNELLY: Garbage, did you say?

THE WITNESS: Garbage.

MS. ERENSTEIN: Garbage?

THE WITNESS: Yes.

JUDGE DONNELLY: Who did he say that to?

THE WITNESS: What?

JUDGE DONNELLY: Who did he say that -- garbage to?

THE WITNESS: Kevin Doyle.

JUDGE DONNELLY: Kevin Doyle said it?

THE WITNESS: Yes.

JUDGE DONNELLY: To who?

THE WITNESS: To me.

Q (By Mr. Biblowitz) Could you explain, again, what Mr. Doyle was doing at this time?

A He --

MS. ERENSTEIN: I think that's been asked and answered.

THE WITNESS: He --

JUDGE DONNELLY: Overruled. Go ahead.

THE WITNESS: The left side of my car.

Q (By Mr. Biblowitz) Fine.

A He dumped in front of the car. Dumped -- and he told me, Marico, in Spanish. Marico, Marico and he do it again.

Q Would you tell the reporter what he was doing with his hand. You're gesturing with your hand.

A He do -- stop in the front of the car on the left side. Striking the car.

Q You were saying he was striking the car with his hand?

A Yes. Saying, "Marico, Marico, Marico, Marico."

Q Now, did you go to work on February 16th, 1976?

A Yes.

Q And did any incident occur on that date with the pickets?

A Yes.

Q What time did it occur?

A I go home the same time every day. Between 1 and 1:30.

Q All right, and who were you with, if anybody?

A Pardon?

Q Who were you with in the car, if anybody?

A With my wife.

Q I see. And will you tell us what occurred if anything?

A Yeah, every time, I was driving my wife. We work the same time together.

JUDGE DONNELLY: Does your wife work at Southport also?

THE WITNESS: Yes. The same time.

Q (By Mr. Biblowitz) Tell us what occurred, if anything, on that date?

A Well, this time, here, it was inside. Mrs. Cora was on the right side --

Q What was the name?

A Mrs. Cora. He had a soda and coffee. Coffee -- soda -- he put coffee on my windshield and spit. And said again, "Marico, Marico." Now, on the other side of the window, my wife's window, the soda -- something like that, all on the windshield and the window. And he spit on my window and in the door. And the coffee on the front of the windshield. And he says, again, again, "Marico, Marico, you go down. Marico, you go down."

JUDGE DONNELLY: Who threw the coffee?

THE WITNESS: The coffee, Doyle.

JUDGE DONNELLY: Doyle threw the coffee?

THE WITNESS: Yeah. The coffee.

JUDGE DONNELLY: This was Kevin Doyle?

THE WITNESS: Yes, the cup, like this.

JUDGE DONNELLY: And this was Kevin Doyle?

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THE WITNESS: Coffee and something -- he had the cup like this.

JUDGE DONNELLY: This was Kevin Doyle?

THE WITNESS: Kevin Doyle.

JUDGE DONNELLY: All right.

THE WITNESS: In the front of the window and the window from the door, he spit. A lot of times he do that.

JUDGE DONNELLY: Spit?

THE WITNESS: Yes, like that.

JUDGE DONNELLY: Did spit actually come out of his mouth?

THE WITNESS: Yes, when I went home, I had to wash my car. In this cold weather, too.

JUDGE DONNELLY: He spit on the windshield of your car?

THE WITNESS: Not on the windshield, in the window.

JUDGE DONNELLY: The window?

THE WITNESS: Yeah.

JUDGE DONNELLY: Your window was up, though?

THE WITNESS: Yes.

JUDGE DONNELLY: All right, but the spit hit the glass didn't it?

THE WITNESS: Yes. And the coffee was on the windshield.

JUDGE DONNELLY: All right.

Q (By Mr. Biblowitz) Now, who did you say was standing in front of the car?

A One lady is in front of the car. She did -- like this to me.

Q Do you know the name of the person?

A I can't remember. My -- you know, the language. I can't keep the names -- nobody here.

Q Was it in the picket?

A Yes, it was the picket.

Q And you say that picket was standing in front of your car?

A In the front of my car.

Q What was she doing?

A She said, "Stop." She do like that -- I tried to move. She said, "No, the people don't move."

Q So this picket put up her hands?

A Yes.

Q I see. I see. And how did you eventually -- how were you able to leave eventually -- did that picket move aside then?

A Outside?

Q No, how did you leave, with the picket standing there?

A No, I waited for the picket, because the boss on the job say, "You need to wait for the people." "Take it easy." "Don't answer the questions. And keep your window up." That's what I do. I don't answer no questions. I only wait. My wife is very, very nervous. And me, too. Because, what can I do, I need to work.

Q Okay.

MR. BIBLOWITZ: I have nothing further, Your Honor.

JUDGE DONNELLY: Ms. Erenstein?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Go ahead.

CROSS EXAMINATION

Q (By Ms. Erenstein) Mr. Garcia --

JUDGE DONNELLY: Just a moment. Could we go off the record?

(A brief recess was taken.)

JUDGE DONNELLY: Back on the record.

MR. BIBLOWITZ: I'd like the record to reflect that I've given copies of Mr. Garcia's affidavits, in plural, and, in addition, a copy of Miss Meyer's affidavit.

JUDGE DONNELLY: How many of Mr. Garcia's?

MS. ERENSTEIN: Three.

MR. BIBLOWITZ: There were --

JUDGE DONNELLY: Three?

MR. BIBLOWITZ: Three. Two taken by the Labor Board, and one taken by I'm not sure who.

JUDGE DONNELLY: All right. Let's go off the record again.

(Discusson off the record.)

JUDGE DONNELLY: Back on the record. All right, you may go ahead.

Q (By Ms. Erenstein) Mr. Garcia, how long have you worked at the Southport Home?

A Well, I started working June 11, 1970.

Q And when did your wife start working?

A One week after me.

Q Do any other members of your family --

A One or two weeks after. I don't remember. The same month. June.

Q Do any other members of your family work there?

A My son, now.

Q When --

A He started in December, last year.

Q After the strike began?

A No, before the strike.

Q Okay. Anybody else?

A No.

Q Has any other member of your family --

A Now, -- right now, is more -- one more.

Q Who is that?

A My daughter.

Q When did she start?

A Two or three weeks ago.

THE WITNESS: All right.

JUDGE DONNELLY: Okay. Go ahead.

Q (By Ms. Erenstein) Your wife and your son worked throughout the strike?

A Yes.

Q Have you worked since -- have you been working the whole time that the 1199 workers were on strike?

A Yes.

Q And you and your wife would drive to work together every day?

A Yes.

Q Now, you mentioned that somebody had told you something about letting the pickets walk around in circle a few times.

A Two or three times waiting for us.

Q Who told you that?

A The boss. So that nobody can go out.

Q Wait, a minute. You'll have to answer slower to me, too. I'm not --

A All right.

Q Who's the boss? Who is the boss?

A Let me explain something, please.

Q Who is the boss?

A Well, I have Miss Meyer, Mr. Garofolo. Mrs. Sherman, Mrs. Ross.

Q Now, all --

A They supervise me.

Q Mrs. Sherman?

A Yes. And Mr. Garofolo.

Q Who's Mrs. Sherman?

A Mrs. Sherman, before Miss Meyer take her place, she's the boss for me.

Q I see.

A Yeah

Q Now, all of these people told you to let the pickets walk [illegible]ound a few times?

A Do you want me to answer that question?

JUDGE DONNELLY: All she wants to know is, who is it that told you that?

THE WITNESS: Who is what? I don't understand.

JUDGE DONNELLY: That told you to wait a little while and let the pickets go on before you went through --

THE WITNESS: The people --

JUDGE DONNELLY: The question is, who told you that? To do that?

THE WITNESS: I can't remember right now. Whether it was Mr. Garofolo or Miss Meyer, but the problem is -- I had a meeting, they told me, what happened yesterday with the strike. I talk to everybody. They say, "What happened, Mr. Garcia? Don't go high temper. Just take it easy. Put your window up. Don't pay attention to what he says." And, "Take it easy. Don't move the car. You don't want to have an accident with somebody."

JUDGE DONNELLY: All right, the question is, who said that to you?

THE WITNESS: I can't remember exactly who, but I think it is my boss. I don't know why. I have two bosses right now.

JUDGE DONNELLY: You don't remember which one?

THE WITNESS: I can't answer that question because it is a long time.

Q (By Ms. Erenstein) It was a long time ago?

A About five months.

Q When was this?

A This started when the strike was beginning.

Q I see. Now, did you ever notice any police at the driveway, when you were coming in or leaving?

A Pardon me?

Q Did you ever see the police?

A Yes.

Q Present at the driveway?

A When the police in the driveway with the people, no problem.

Q Did you ever see the police?

A I see the police.

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Q Every day?

A Every day.

Q Okay. When you were going in?

A Yes.

Q And what time was that? What time did you go in?

A Between 1 and 1:30.

Q When you go in to work -- what time do you go in to work?

A I don't want to answer that question. I don't want nobody to know what time I come in to work.

JUDGE DONNELLY: That's a legitimate question. I think you should answer it.

THE WITNESS: I answer that question?

JUDGE DONNELLY: Yes.

THE WITNESS: I come in at 5 o'clock in the morning.

Q (By Ms. Erenstein) And you leave at 1?

A Yes.

Q All right, so when you go in you don't see anybody there, right?

A No.

Q There's no pickets there at 5?

A No.

Q Okay, when you leave, the police are there and the pickets are there?

A Yes.

Q Are the police and the pickets close by to each other?

A The police over there, by the car.

Q Pardon?

A The police are out of the street in a car.

Q In a car?

A Yes.

Q And where are the pickets?

A The picket in front of the driveway.

Q How close are the police to the pickets?

A The same with the street. Near the street How many feet is that, I don't know exactly, ma'am. Maybe 50 feet. Maybe 75. Maybe 100.

JUDGE DONNELLY: The width of the street, right?

THE WITNESS: Right, in front, across the street.

JUDGE DONNELLY: Go ahead.

Q (By Ms. Erenstein) Have you ever seen the police standing near the pickets?

A Before on the picket line where they started?

Q Yes.

A The police are here with the picket.

Q They're right there with the picket?

A Yeah, in my way and I go.

Q Okay. So, in the beginning of the strike, the police were standing where the pickets were standing?

A Yes.

Q And whenever a car came --

A The police open --

Q That's right, they were picketing around like this, and when a car came, the police would open, and the car would go out?

A Yes.

Q Now --

JUDGE DONNELLY: Let me ask you this, well, never mind, go ahead.

Q (By Ms. Erenstein) On this -- well, getting back to December 17th, you say that Mr. Doyle -- by the way, when did you first meet Mr. Doyle?

A I see Mr. Doyle every day.

Q When did you first meet Mr. Doyle? When did you first --

A Yes.

Q -- meet Mr. Doyle?

MR. BIBLOWITZ: Meet or see?

Q (By Ms. Erenstein) Did you ever meet Mr. Doyle?

A Meet?

MR. BIBLOWITZ: What do you mean by meet?

THE WITNESS: I don't understand.

MR. BIBLOWITZ: Do you mean introduce or did he see?

Q (By Ms. Erenstein) Do you know Mr. Doyle?

A I know because now somebody said the name. Because I don't know him.

Q Who told you the name?

A Oh, I asked the people, "Who is the guy?" I don't know.

Q Who told you the name?

A Oh, come on, honey, you want I should remember everything.

MS. ERENSTEIN: Your Honor, I'm going to have to ask you to tell him --

THE WITNESS: I'm sorry. I said I can't remember everything.

JUDGE DONNELLY: Well, all right, if he can't remember he --

THE WITNESS: That's --

JUDGE DONNELLY: Well, wait a minute. Now --

THE WITNESS: I've got a language problem and I don't remember.

JUDGE DONNELLY: Well, listen to me. If she asks you a question, either you don't recall or can't remember, or --

THE WITNESS: I don't understand this.

JUDGE DONNELLY: Listen to me. Just say that you don't remember or you don't recall. That's all.

THE WITNESS: I'm sorry. I thank you.

JUDGE DONNELLY: All right.

MS. ERENSTEIN: Could you ask him to cut out the honey, too.

JUDGE DONNELLY: Well, if he does it again --

MS. ERENSTEIN: Don't do it again, please.

THE WITNESS: Pardon me?

MS. ERENSTEIN: Don't call me honey.

JUDGE DONNELLY: All right, okay.

Q (By Ms. Erenstein) Now --

A Sorry.

Q What does marico mean?

A Marico?

Q Yes.

A Homosexual.

Q Homosexual?

A Yeah.

Q And he called you this on December 17th?

A He called me that everyday. On December 17th, yes.

Q And every other day, too?

A Yes.

Q Was he there every day?

A Every day, he's here.

Q Did you have your windows up?

A No.

Q Did you have your windows down?

A No. I hear it.

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Q You would hear it whether the windows were up or down, right?

A I heard it because it was very noisy.

Q Every day you go in and you go out?

A Every time on the picket line, he talk to me there. Every time.

Q Every time?

A Yes.

EXAMINATION

Q (By Judge Donnelly) Let me ask you this, do you always have your windows turned up?

A No, sir.

Q Sometimes they were down?

A No, sir. Every time I put a lock on the door.

Q My question is, were your windows always turned up?

A Up?

Q Up?

A Yeah.

Q Okay, well, if your windows were up, how can you hear him? Did he --

A Oh, yes, sir.

Q All right.

A Yes.

Q Did he speak loud?

A Yes.

Q All right, is that why you were able to hear?

A Yes.

Q All right.

FURTHER CROSS EXAMINATION

Q (By Ms. Erenstein) Did anybody ever call you a scab?

A (No response.)

Q Did you hear the term scab?

A Scab?

Q Scab?

A Scab, yes.

Q Did anybody ever call you that?

A Yeah.

Q What else did they call you?

A Well, maybe --

JUDGE DONNELLY: Who is they now? We're not interested in the whole world, but is there some particular individual that you're asking about?

Q (By Mr. Erenstein) Did Mr. Doyle ever call you a scab?

A No, he only called me marico.

Q Okay, where was he --

A And garbage --

Q And garbage?

A Yes.

Q Where was he when he would call you these names?

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A I can't --

Q Where was Mr. Doyle located when he would call you these names?

A I can't remember.

Q Where was he? You said everyday he called you --

A Well, everyday he's there.

Q Yes.

A Not every day he's there -- when he is there -- When he's there -- I look, I see him. If no there, he no there.

Q Do you remember the first day of the strike -- don't you?

A Yes.

Q Okay, where was he on that day?

A He waited for me -- marico, garbage --

JUDGE DONNELLY: I don't think he understands the question. Mr. Garcia, when you were driving through with your car, right?

THE WITNESS: Yes.

JUDGE DONNELLY: And you were driving with your car?

THE WITNESS: Yes.

JUDGE DONNELLY: And he is outside the car?

THE WITNESS: Yes.

JUDGE DONNELLY: Doyle is outside the car?

THE WITNESS: Sometimes --

JUDGE DONNELLY: Where outside the car?

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THE WITNESS: Sometimes this side, sometimes that side, sometimes in the front.

JUDGE DONNELLY: Okay and how far away from your car is he?

THE WITNESS: Well, when he's on this side, he's very, very close to me. And the other side, too. Very, very close to me. Only one person -- and about maybe three feet, that's all.

JUDGE DONNELLY: How many feet on the left? On the left side of the car?

THE WITNESS: Too close. I don't know. Sometimes close to the car.

JUDGE DONNELLY: All right.

Q (By Ms. Erenstein) How many times have you seen him since the strike began -- approximately?

A I can't remember. I seen him a lot of times, many times.

Q Did you see him yesterday?

A I don't remember.

Q What about the day before?

A I don't remember.

Q Do you remember when --

A There are too many questions here.

Q Well, when did you last see him?

A Maybe last week, I think. But I don't remember what day it was.

Q Is there any specific -- what's the last day that you do remember seeing him for sure?

A I cannot answer, because I don't remember. If I take a piece of paper and mark every day, all right. But I don't do that.

Q You don't recall -- there's no last time that you saw him?

A I no do it.

Q You don't remember?

A No.

Q But you do remember December 17th?

A Oh, yes, because December 17 was very bad for me.

JUDGE DONNELLY: Off the record.

(Discussion off the record.)

JUDGE DONNELLY: Back on the record.

Q (By Ms. Erenstein) The police were standing near the pickets on December 17th, weren't they?

A Yes.

Q Now, tell us again --

JUDGE DONNELLY: How far away were they? That's a relative term.

THE WITNESS: What?

JUDGE DONNELLY: How far away on this incident that you testified to on the 17th? How far away were the pickets from the police?

THE WITNESS: There were a lot of people here. The police were here with the picket line.

JUDGE DONNELLY: Yes.

THE WITNESS: Sometimes two cars, three cars, or one car across the street. And the police watch the people.

JUDGE DONNELLY: Yeah, but on December 17, now, we're just talking about that time, that you can testify to December 17th, when you were coming that day, where were the police and where were the pickets?

THE WITNESS: The police were across.

JUDGE DONNELLY: Across the street?

THE WITNESS: Yeah.

JUDGE DONNELLY: All right.

Q (By Ms. Erenstein) Weren't they standing there? Standing -- not in their cars? Standing with the pickets on that day?

A When the police were out -- the police were inside the car.

Q On December 17th --

A Yeah -- and sometime the police are standing with my car -- and the police heard what he said.

JUDGE DONNELLY: We're just asking about one day now.

THE WITNESS: Yes.

JUDGE DONNELLY: December 17. Not the rest of the days.

Just on December 17th. Okay. So, go ahead and ask the question.

Q (By Ms. Erenstein) Now --

A The police --

Q On that day.

A The police, I don't remember exactly.

Q Mr. Garcia, did you say you don't remember exactly on the 17th?

A I don't remember exactly if the police were there or on the picket line.

Q So they could have been there. They could have been in the car?

A Yes.

Q Now, on February 16th, what time did this incident occur?

A At the same time, between 1 and 1:30.

Q And who was in the car with you?

A Between 1 and 1:30.

Q Who was with you?

A My wife.

Q Now, tell me -- and I'm sorry, I had a hard time understanding what you said. Just tell me what happened again, slowly?

A Well, Kevin Doyle was on the site. And this time he had a cup of coffee and he was very close to my window.

Q Yes.

A And he talk, marico and garbage and a lot of things. And, he speak in my window from the door and he spit in my window, he did that. Now, on the other side -- Mrs. Cora, and she had a soda and she put -- and the window -- my wife, on the front, it was very close.

Now, in the front we had another girl.

Q Okay, go ahead.

A Another girl in the front, do like that, no, no, no. Everytime I try to move the car, she said no. I said, "Well, I need to come by." And my wife said --

Q Did you get out of the car?

A Pardon me?

Q Did you get out of the car?

A Out of the car?

Q Yes.

A Oh, no, never. I'm not crazy.

Q You never got out of the car?

A I no crazy.

Q Never, during the whole strike --

A Never did I get out of the car.

Q You never got out of the car?

A Never. I got out and I go home, in the front of my house.

Q All right, listen one more time. From the beginning of the strike until now, did you ever get out of the car?

A Never.

JUDGE DONNELLY: Well, where? Before, at his house?

MS. ERENSTEIN: I'm sorry --

JUDGE DONNELLY: You mean, at the picket line?

MS. ERENSTEIN: If he would let me finish, I would try my best --

JUDGE DONNELLY: Well, I don't think you've asked a proper question, Counselor. You asked him if he ever got out of his car.

MS. ERENSTEIN: At the picket line --

JUDGE DONNELLY: I assume, that at one time or another he does get out of his car.

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: And into it.

MS. ERENSTEIN: I'm trying to say at the picket line.

JUDGE DONNELLY: All right, then you've got to say that, Counselor.

MS. ERENSTEIN: Well, ask him to wait until I finish with my questions.

JUDGE DONNELLY: You've asked the question three times and you haven't asked it properly yet.

MS. ERENSTEIN: Should I ask it again?

JUDGE DONNELLY: Yes.

MS. ERENSTEIN: All right.

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Q (By Ms. Erenstein) Did you ever get out of the car at the picket line?

A I said, never.

Q Did you ever throw your door open to get out of the car?

A I said, I never do that.

Q No.

A Even while I was waiting. You said, I no wait until you finish your question. I think you finish.

Q From the beginning of the strike until now, including that time in February, you never got out of the car at all?

A I no crazy.

Q Pardon?

A I no crazy. I don't do that.

Q Did you ever -- did you say you did not?

A No. N-o. And that's it.

Q Now, somebody had soda, you said?

A Yes, on the right side.

Q Who was that?

A A lady, I think her name was Cora.

Q What was her last name?

A I don't know.

Q Who is she?

A She worked in Southport Manor.

Q In -- Southport Manor?

A Yeah.

Q Okay, and what did she do exactly?

A I --

Q Exactly what did she do?

A Talk --

JUDGE DONNELLY: Where is it in the allegation of anything that this woman did --

THE WITNESS: She was a --

MR. BIBLOWITZ: Wait a minute. Excuse me, wait a minute. Just a minute, just a minute, before you answer. She was included in that same --

THE WITNESS: Yeah.

MS. ERENSTEIN: In that same --

JUDGE DONNELLY: All right.

MS. ERENSTEIN: On that same one that's not in there.

JUDGE DONNELLY: Well, let me see, let me see. I just want to be sure that we're not eliciting testimony concerning an allegation that hasn't even been made, that's all I want.

MR. BIBLOWITZ: It will be under (h).

JUDGE DONNELLY: Yeah, but you're talking about -- she's asking about the February 16 incident, not the December incident. We're talking about -- does your paragraph 8(j) -- all right.

MR. BIBLOWITZ: That's it.

JUDGE DONNELLY: Okay.

MR. BIBLOWITZ: That's the one.

JUDGE DONNELLY: All right. Go ahead.

MS. ERENSTEIN: 8(j)?

JUDGE DONNELLY: Yeah.

MS. ERENSTEIN: Carrying people to work?

JUDGE DONNELLY: Well, --

MS. ERENSTEIN: They were leaving.

JUDGE DONNELLY: Well, anyway, the only question is -- and the reason I raise it, is whether or not the question was necessary in view of the allegation and the complaint. The answer is, yes, it is a proper question so you can go ahead and ask it.

MS. ERENSTEIN: All right.

JUDGE DONNELLY: What she wanted to know -- I believe the question was, what was the woman on the right-hand side of the car doing?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: With the soda, what was that all about? And do you remember that woman's name? I believe you testified her name was Cora, but you can't remember her last name, is that right?

THE WITNESS: I only know from Cora.

JUDGE DONNELLY: All right.

Q (By Ms. Erenstein) All right, so tell me what she did?

A She took a soda and she repeated the same -- the same thing, marico, marico, marico. Garbage, garbage, garbage. And threw the soda in the door and the window. Right there. The police see this.

Q The police saw this?

A The police see everything. I don't know what happened. The police see everything.

Q Where were the police?

A Nothing.

Q Where were the police?

A Across -- somebody with a camera, too. They just move -- somebody make a move, yes. That's true.

Q Was the window up?

A Yes.

Q Okay, now, when did this happen with the soda? Was this before or after --

A No, same time.

Q At the same time as the coffee?

A Yes. The same time as the coffee and the lady in the front.

Q They all happened at the same time?

A Yes, same time, one time. One in the front, one here, another one here. This is the last time you talk about it.

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Q You were driving?

A Yes.

Q As you were coming down the driveway --

A Pardon me?

Q As you were coming down the driveway, did you see --

A Coming down me, no, I drive the car.

Q As you were driving the car, down the driveway --

A Yes.

Q Did you see any picketers?

A Yes.

Q What were they doing? As you approached -- what were they doing?

A Well, they were crazy. I knew they were crazy, I no look for trouble. I'm no troublemaker.

Q What were they doing?

A They do?

Q Yeah.

A The picket line.

Q Yes.

A It was very noisy.

Q Were they walking?

A They were walking. In the picket line.

Q Yes. And what was your speed?

A My speed?

Q Yes.

A I stopped the car.

Q I see.

A I no speed. I stopped it because I don't want to kill nobody.

Q You stopped the car --

A I stopped the car. I waited for the people --

Q Every day, right?

A Yes.

Q Every day when you would come --

A Every day the people were in the picket line. If no picket line, I no have the problem.

Q That's right, and rather than hit the people with your car, as they were walking around --

A That's right, they were crazy.

Q You would wait and stop --

A Yes.

Q And they would walk around --

A Yes.

Q They would go and you would leave?

A Yes.

Q Right?

A Yes.

Q Now, the windows in your car were up?

A Yes.

Q All the windows, right?

A Yes.

Q What happened to the person who was standing in front of the car?

A She -- the same time he put the coffee in my window, I tried to move the car, and she stopped right there. Watch out! Watch out! And she did that.

Q You would have stopped anyway, right?

A Oh, yes.

Q You were stopped --

A I stopped for her to get out of the way.

Q Wait a minute, you stopped --

A Yes.

Q And then she went and put her hands up in the air?

A Yeah. No, no, no. I stopped, right.

Q Yes.

A The picket line. She crossed the picket line. When I tried to move the car, she had stopped right there.

Q Yes.

A And I stopped again.

Q Yes.

A Because if I no stop, I kill her.

Q I see.

A When I try to move the car, she says, "No, no, no, no." What I do? Would she chicken out?

Q And then she moved?

A That's right.

MS. ERENSTEIN: I have no further questions.

JUDGE DONNELLY: Okay.

MR. BIBLOWITZ: No, nothing further, Your Honor.

JUDGE DONNELLY: You're excused. Thank you.

THE WITNESS: You're welcome.

(The witness was excused.)

MR. BIBLOWITZ: Are we going to take a break?

JUDGE DONNELLY: All right, let's take a lunch break. It's 1:15. Why don't we -- an hour is enough time, isn't it? All right, we'll take a lunch break. We'll recess for lunch and resume at 2:15 p.m.

(Whereupon, at 1:15 p.m., the hearing was adjourned, to reconvene at 2:15 p.m., on the same day, in the same place.)

- - - - - -

Q Let me ask you this -- did you, at any time, see coffee on that car?

A No, sir.

JUDGE DONNELLY: Okay, you're excused.

(The witness was excused.)

MR. BIBLOWITZ: I would like to call Robert Harper, please.

JUDGE DONNELLY: Raise your right hand, sir. And be sworn.

Whereupon,

ROBERT HARPER

was called as a witness by and on behalf of the General

Counsel, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: All right, sit down and tell the Reporter your name and address.

THE WITNESS: Officer Robert Harper.

HEARING REPORTER: Would you spell your last name, please?

THE WITNESS: H-a-r-p-e-r.

JUDGE DONNELLY: And what's your address?

THE WITNESS: 240 Sunny Ridge Road.

DIRECT EXAMINATION

Q (By Mr. Biblowitz) By whom are you employed?

A Town of Fairfield. Fairfield Police Department.

Q And how long have you been employed by the Fairfield Police Department?

A 10 years.

Q What title do you hold?

A Patrolman.

Q During that period, have you ever worked for Southport Manor?

A Privately?

Q Yes.

A About 4 times inside the hospital.

Q Were you onduty--

JUDGE DONNELLY: Well, what did you do -- what was your job?

THE WITNESS: Security.

JUDGE DONNELLY: Security?

THE WITNESS: Check the doors and see that no trespassers were allowed inside and no one was on the property.

JUDGE DONNELLY: Did you wear a uniform?

THE WITNESS: I wore a regular uniform, yes.

JUDGE DONNELLY: Fairfield --

THE WITNESS: Fairfield Police --

JUDGE DONNELLY: Police uniform?

THE WITNESS: Yes.

JUDGE DONNELLY; Okay, but you were paid by the Nursing Home?

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THE WITNESS: Right, this was an off-duty, extra job.

JUDGE DONNELLY: I see.

THE WITNESS: The hospital pays.

JUDGE DONNELLY: Okay.

Q (By Mr. Biblowitz) Were you on duty for the Fairfield Police Department at Southport Manor on December 4th?

A Yes, I was.

Q Did you witness any incident involving pickets on that day?

A Yes, I did.

Q What time did this incident occur?

A About 4 in the afternoon. And would you like to know what --

Q Yes, would you tell us what --

MS. ERENSTEIN: Well, before he does that, may I note my objection again? There's nothing in the complaint about December 4th.

JUDGE DONNELLY: Well, once again, you're making the same argument that it's encompassed within the allegations of 8(h)?

MR. BIBLOWITZ: Yes.

JUDGE DONNELLY: And on that basis, I'll overrule the objection. Okay.

MR. BIBLOWITZ: Okay.

Q (By Mr. Biblowitz) Go ahead, please.

A Well, I was assigned to picket duty at the entrance gate to Southport Manor. I was across the street. When -- the Southport Manor has a blue Chevrolet van. It was coming out. I guess to bring employees out. And I witnessed Cora Bennett --

Q One of the pickets?

A One of the pickets. A tall Negro lady.

Q Yes.

A She was on -- it would be the operator's side of the van. My side. And she took a cup of -- it later turned out to be hot chocolate and she was screaming obscenities. And she was in a rage. She was just terribly emotionally upset. She was just hollering and screaming. And she threw that --

JUDGE DONNELLY: All right, what did she say?

THE WITNESS: I don't like to use the obscenities, but she said --

JUDGE DONNELLY: Well, I understand that but as I have explained -- I don't whether you were in the courtroom, or not, we're trying to arrive -- and it's as important for us to know what was said in many of these circumstances so when you're asked a question and it involves statements that were made by people, testify accurately and fully to what they said and don't concern yourself about the sensitivities of it.

THE WITNESS: Well, you mother-fucking scabs. Those are your -- I don't remember the exact wording, but those are your -- she made reference to the pig, mother-fuckers, are your friends. They're here to protect you. And she said, "Fuck you," at least ten times.

JUDGE DONNELLY: Well, who was she saying "Fuck you," to?

THE WITNESS: At -- concentrated at the van. As it was coming out. The employees were in the van.

Q (By Mr. Biblowitz) How many employees were there in the van? Approximately --

A I wouldn't venture a guess.

Q But there were employees --

A Yeah, there were people in the van, yeah.

Q I see.

A But how many, I couldn't testify to.

Q What occurred?

A I observed her screaming these obscenities. She threw this cup of hot chocolate on the side and back of the van. She was more or less to the rear of the van there. It really covered it.

I walked over to her and I says, "You're under arrest." Advised her of her rights. Brought her down to police headquarters and she was placed under bond and she was fingerprinted and photographed.

Q Now, do you know Kevin Doyle?

A I know him from the Southport Manor -- yes, he was pointed out to me as Kevin Doyle.

Q Now --

JUDGE DONNELLY: Before you go on to that, I hate to interrupt but I may lose my thought about it if I don't. What did you arrest her for?

THE WITNESS: Disorderly conduct. She was --

JUDGE DONNELLY: Well, what did she do that caused you to arrest her?

THE WITNESS: Well, she -- it was obstructing traffic. Somewhat the way she was interfering with it. She was right close to the van. She was intimidating the people inside. Creating a complete disturbance. And that was the reason.

JUDGE DONNELLY: Okay.

Q (By Mr. Biblowitz) Do you know Kevin Doyle?

A I know Kevin Doyle, yes.

Q By sight?

A By sight, yes.

Q And Tom Doyle?

A Yes.

Q Were either of them present? On that date, at that time?

A I can't swear that they were. Present at that time, no.

I won't.

Q Could you tell us, does the Fairfield police have a policy towards these situations, such as Southport Manor regarding picketing and arrests?

A Well, the first two to three weeks, we were told we were instructed to make on-site violations, as if it were any locations, any place in town, an on-site violation, the officer witnesses, he makes the arrest. This is what we were doing. She created the disorderly conduct, breach of the peace.

About two or three weeks later, they had a meeting between the union and the police department.

Q All right.

A And the policy was changed, after that meeting. They were allowed to obstruct traffic. And then we were not allowed to make an arrest. Without a written, sworn statement and complaint from a person, someone passing through the line was abused. They felt they were abused, their cars were damaged. Then we made the arrest only on the written complaint.

Q Were you informed of this?

A Were informed of this.

Q By whom?

A By the sargeant at the scene. I don't remember who it was.

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Q And you were informed that that was to be the policy in the future?

A Right.

Q All right.

MR. BIBLOWITZ: I have nothing further of this witness.

JUDGE DONNELLY: Let's be off the record for a minute.

(Discussion off the record.)

JUDGE DONNELLY: On the record.

CROSS EXAMINATION

Q (By Ms. Erenstein) When did you work these four times for Southport?

A The days?

Q Yes.

A That would be a matter of public record. I couldn't tell you. I don't remember those days.

Q Do you recall what year it was?

A 1975.

Q Was it after the strike began?

A It was after the strike began, yes.

Q And your wife works at Southport Manor, doesn't she?

A She works there now, yes.

Q Okay. And she started working after the strike began, didn't she?

A Yes.

Q Right at the beginning of the strike?

A Not right at the very beginning, no. Perhaps a month after it had started.

Q And how often did you come there on duty?

A I was assigned there for about the first three to four weeks of the strike.

Q You were specifically taken off that duty, weren't you?

A I was taken off strike duty.

Q Do you know why?

A Well --

Q Wait, let me ask -- isn't it a fact that certain complaints were specifically made about your presence on the picket line, do you know that?

A I don't know. No one ever approached me. No one -- my superiors never approached me and says we have complaints against you.

Q But you were taken off?

A I was taken away from the line, yes.

Q Who took you off?

A Captain Campbell.

Q Did he tell you why?

A Well, I requested it.

Q You requested it?

A Yes, I did.

Q Did you ever use the expression, "spread 'em" when talking to the women who were at the picket line?

A I don't remember if I did or not.

Q Is it possible that you did?

A Anything's possible.

Q Is it possible that you said it repeatedly?

A It is possible, yes.

JUDGE DONNELLY: To who?

MS. ERENSTEIN: To the strikers -- the women strikers at the picket line.

JUDGE DONNELLY: All right, I want to make sure that that's what he understands the question to be, with respect to who this may have been said to.

Q (By Ms. Erenstein) Do you understand my question?

A I understand your question, yes.

JUDGE DONNELLY: Well, did you say that to the --

THE WITNESS: I don't remember. I very possibly could have said it, but not directed at them.

Q (By Ms. Erenstein) Who did you say it to then?

A To spread the line out. As if you were to say, "All right, let's spread them out." People -- let's open the line. Very possibly I said that, yes. As if you were to say, "Okay, let's spread them out." Move them out of the way. They are concentrated in one area. If you see what I mean. If you have a concentration of something and you want to just spread it out.

Q Nobody from the police department ever advised you that complaints had been made because you were making obscene and disrespectful remarks to the women on the picket line?

A No.

JUDGE DONNELLY: Well, let me ask you this. I want this to be specific. Did you ever use it as a noun, in telling or referring to any of these female strikers, as spreaders?

THE WITNESS: You mean to spread their legs?

JUDGE DONNELLY: Yeah, right.

THE WITNESS: No.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) During the period that you were on picket duty, approximately how many police officers were present at the picket line at any given time?

A During the period that I was there, the first three to four weeks?

Q Yes.

A 8 to 10, up to 12.

Q This was routinely?

A Then, yes. After this meeting, they cut it right down.

Q Okay, were you present at the meeting?

A No.

Q Do you know why the meeting took place?

A We were not informed. The patrolmen were not informed. Of anything.

Q But after the meeting, the number of police were cut down?

A Right.

Q And when you -- you say that after the meeting, the policy changed and the picketers were allowed to obstruct traffic?

A Yes.

Q Can you be more specific as to what they were allowed to do?

A All right, at the beginning of the strike, we were instructed to, when the cars come down that they were not allowed to obstruct traffic. Okay.

Q Yes.

A And we would have -- we would just make a formation and move them aside. After this meeting, they were given permission to circle -- the one time, complete. The cars would come down and they would not move at all. And they would circle in front of the car, completely obstructing that man or woman's entrance, I guess.

Q They were allowed to make one circle across the driveway?

A Right, in front of the car and then --

Q And then they would -- they would open up.

A Yes.

Q And that's what you mean, when you refer to being allowed to obstruct the driveway?

A Right.

JUDGE DONNELLY: This was done with every car? With each car?

THE WITNESS: Every car. Each vehicle as it came down the driveway. And this would be if there were three or four or five cars in a row. Each car would be blocked and they would not be allowed -- the people would not be allowed to go in to or out of the Southport Manor at their free wish.

JUDGE DONNELLY: You mean, each -- they were entitled to one circle for each car and they would --

THE WITNESS: For each car.

JUDGE DONNELLY: And they would circle each car, and that would go and the next car and they'd circle around them --

THE WITNESS: Right.

JUDGE DONNELLY: And then they could go.

THE WITNESS: Yes.

JUDGE DONNELLY: And then the next car in order, they'd circle around them and then he could go?

THE WITNESS: Yes, that's right.

Q (By Ms. Erenstein) All right, and prior to that, people who would circle in front of the car would be obstructing, is that correct?

A Physically obstructing, yes.

Q And in your opinion, that would be a violation of the law that they were doing?

MR. BIBLOWITZ: Your Honor, I object. I don't think that has relevance to this. His opinion.

MS. ERENSTEIN: Well, he referred to on-site violations and I'm trying to --

JUDGE DONNELLY: Well, I think he's got adequate expertise, I think, to answer. I'll overrule the objection.

THE WITNESS: We were told at the beginning to make these violations -- if anyone obstructs the driveway, to make an arrest.

JUDGE DONNELLY: She asked you, was it your opinion, that this constituted obstruction?

THE WITNESS: At this time, with the circle?

JUDGE DONNELLY: Yes.

THE WITNESS: Yes, it did.

Q (By Ms. Erenstein) How wide is the driveway?

A Well --

Q Approximately.

A I would say approximately 25 feet.

Q It's not as wide as this room, is it?

A Not quite as wide, no. Again, it's approximately.

JUDGE DONNELLY: That doesn't mean anything for this record, Counselor. The record doesn't know how wide this room is.

THE WITNESS: It's wide enough for one car to come in and one car to go out at the same time.

Q (By Ms. Erenstein) But not with much space in between, right?

A There is enough space. Safety -- three feet between them.

Q All right, and about how wide is the road? That runs perpendicular to the driveway?

A You mean Mill Hill Terrace?

Q Pardon?

A Mill Hill Terrace, the town road?

Q I guess so.

A I wouldn't venture a guess.

Q It's not as wide as the driveway?

A It's wider than the driveway, I'm sure. But you'd have to measure that.

Q What else were the pickets allowed to do after the agreement, that they hadn't been allowed to do before the agreement?

A Well, they told us that they were allowed to make that circle. And we could not make an arrest. For disorderly conduct or for thumping the vehicle, unless the person gives a written complaint.

Q Okay.

A So we had to stand there and watch the banging of cars and the obstruction, and we had to wait. We were there to prevent violence.

Q You were allowed to arrest someone if they assaulted someone?

A For an assault, physical assault. Body to body, person to person, oh, yes.

Q And when was this agreement?

A It was three weeks into the strike. I don't remember the exact date. It could have been less.

Q Was it before Christmas or after Christmas?

A I couldn't swear to it.

Q Were you present on picket-duty when one of the picketers was hit by a car coming out?

A There was one incident, I don't know if it was a picketer or the sergeant was hit by the car. I believe one of our sergeants was hit by a car. I don't remember, but I was there when someone was struck by a car, yes, but I did not witness it or anything.

JUDGE DONNELLY: Well, if you don't plan to pursue it. I don't recall any testimony on that on direct examination. But on my own, I'm going to try to keep the cross examination within the scope of direct.

MS. ERENSTEIN: Well, you see, I can only connect it with testimony from my own case. I am not really in a position where I can recall a witness --

JUDGE DONNELLY: Well, I understand that, but --

MS. ERENSTEIN: I think it's relevant. It's leading up to --

JUDGE DONNELLY: Well, all right, I just don't want -- all I want to do is -- I just want to caution the parties that I don't want a lot of testimony beyond the allegations that we have in the complaint. That's really what I'm trying to accomplish in the overall.

MS. ERENSTEIN: All right.

Q (By Ms. Erenstein) You said it was about 4 o'clock, when you saw the van coming out on December 4th?

A Yes.

Q And where was Cora Bennett?

A If I were to be facing the exit right now, all right, the van would be coming to me. She would be on the operator's side of the van.

Q And you were across the street?

A She would be on the east side, okay.

Q And where --

A She would be on the northeast corner of that intersection. Okay.

Q And you were across the street?

A All right, and I was on the southeast, okay. Basically southeast from that intersection. If we were to square it off as a true intersection.

Q You were on the opposite side to the van?

A No. You are the van facing me, okay. Basically off to my left.

Q Yes.

A All right, you're coming like this to me. I'm standing here across the road.

Q You're across the road.

A Cora Bennett was standing here, nose to window. To the van, okay.

Q Okay.

A Any closer and she would have scraped off a portion of her nose.

Q Which window did she have her nose on?

A We -- there are about five or six windows. And any one of them could have done it, from the front to the back.

JUDGE DONNELLY: The left-hand side of the vehicle?

THE WITNESS: It would be operator's side, yes.

JUDGE DONNELLY: She was between you and the vehicle? Is that what you're testifying?

THE WITNESS: Right, right. She was obstructing my

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view, she was between me and the vehicle, right. I could see her very clearly, very plainly, no doubt.

Q (By Ms. Erenstein) And she was so close to the vehicle that she could almost touch it?

A Oh, she could have easily touched it with her hand, if she had breathed too deeply. She would have touched it. That's how close. I'm surprised that her coat didn't brush the dirt from the side.

Q And where was the coffee?

A The coffee was in her hand.

Q Where was her hand?

A Attached to her arm.

Q Where was her arm?

A About to throw -- she was about to throw it. I don't remember if it was her left or right hand.

Q No, no, no, you don't understand.

A But she did throw it.

Q I'm just trying to get at something very simple.

A Yes.

Q If she was this close to the van, I'm just trying to -- what did she do? Just describe it as best you can.

A She was standing there as the van went by, screaming obscenities which I've already stated and she had to step back just a bit.

Q I see.

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A And just threw a whole cup of coffee, or it was hot chocolate up against the windows at the people, okay. Whoever was sitting inside. Whoever it was. I don't who the people were who were in there. She threw it right at the windows, hit the windows along the side to the back.

Q The windows were up?

A The windows were closed. In a closed position, yes.

Q And this was the back of the van?

A Well, we will say, like, from the center window on the side to the back, okay. When she threw it, it splashed, so we'll say it splashed the entire -- from the middle to the back. Okay?

Q All right, now, right before that, the van was coming down the hill?

A Yes.

Q Or coming out from the nursing home?

A It's somewhat level. We'd say coming down because it starts -- it is a hill coming down. It levels off at that particular location. But I'm just saying it's coming down from the manor which is located on a hill.

Q All right.

A She was coming down and he had his left blinker on, about to make a left turn.

Q I see. And how many picketers were present?

A 10 to 15.

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Q And --

A She was alone on her side.

Q She was the only person there?

A Right, the rest were on the other side. Where I couldn't see.

Q Where was she -- what happened, the van came, and the people moved aside?

A The people moved aside. I don't know if she aware that everyone had left her or not, but she just ended up alone. For what reason, I don't know.

Q Did she approach the van to get that close?

A Oh, she intentionally walked up to it, yes. I was surprised -- as I say, I was surprised that her coat went by and didn't brush the van.

Q She was that close, but she didn't touch it at that time?

A Not physically touch it.

Q And then she moved back?

A Just a step or two.

Q She moved back some?

A Yes she did move back some. Yes, I said that.

Q Okay, now, did the van stop during this whole time?

A It was just barely in motion at that time. He was just about to make his entrance. His left turn, okay. The front was almost on to the road.

Q What job does your wife have at the nursing home?

A What job does she have?

Q Yes, what is her job? Do you know?

A I believe she's in housekeeping.

Q Do you know if she was hired as a replacement for one of the strikers?

A No, suddenly one day my wife approached me. She says, "I have a job at Southport Manor."

Q You don't know anything more than that?

A I didn't question her reason at all.

Q Is she still working there?

A She's still working there, yes.

Q Since the time, three or four weeks after the strike began, when you were taken off that duty, have you ever been restored to picket line duty?

A I was not restored and the way our patrols rotate, I was completely unavailable to work, since that time. We have a rotating thing and I was -- I wouldn't have been assigned there anyways. Because I was completely on the other side of town.

MS. ERENSTEIN: No more questions.

JUDGE DONNELLY: Anything further?

MR. BIBLOWITZ: Nothing, Your Honor.

JUDGE DONNELLY: Okay, you're excused. Thank you very much.

please?

JUDGE DONNELLY: Well, that satisfies as a stipulation. The parties agree, then, to that, to thos figures and that the complaint may be so amended to reflect those figures. Is that correct?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Okay.

MR. BIBLOWITZ: Margaret Leko, please.

JUDGE DONNELLY: Would you raise your right hand, ma'am, please.

Whereupon,

MARGARET LEKO

was called as a witness by and on behalf of the General Counsel, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Okay, sit down and tell the Reporter your name and your address?

THE WITNESS: Margaret Leko, 46 Grandville Street.

MS. ERENSTEIN: Grandville?

THE WITNESS: Yes.

JUDGE DONNELLY: That's L-e-k-o?

THE WITNESS: Right.

MS. ERENSTEIN: Bridgeport?

THE WITNESS: Fairfield.

DIRECT EXAMINATION

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MS. ERENSTEIN: She says it's a private conversation. I'm not even sure it was said at a meeting.

JUDGE DONNELLY: Well, I'm only talking now about the question -- the General Counsel has made a motion to amend the complaint to reflect the name of -- what's --

MR. BIBLOWITZ: The name -- instead of Myrtle Nicholson and -- in paragraph 8(a), it should be Geraldine Lazarro.

JUDGE DONNELLY: Lazarro.

MR. BIBLOWITZ: Geraldine, first name.

JUDGE DONNELLY: And over your objection, I'll permit the amendment to the complaint in this respect. You have an objection. Okay.

Q (By Mr. Biblowitz) Now, you were testifying that --

A Well, I --

MS. ERENSTEIN: I stopped her already. She was about to say it.

Q (By Mr. Biblowitz) Did anybody at this meeting say anything to you regarding your statement about being against the strike?

A I don't remember.

JUDGE DONNELLY: Well, what did Geraldine Lazarro say to you?

THE WITNESS: Geraldine Lazarro threatened that if there was one no statement, in the vote box, that it would be mine and my arm would be broken.

Q (By Mr. Biblowitz) Was that statement made at the meeting?

A Yes, it was.

Q Were either Kevin Doyle or Tom Doyle present at that meeting?

A Tom Doyle was.

Q I see.

MS. ERENSTEIN: Don't you think you should ask her if they heard this --

JUDGE DONNELLY: Well, you can do that on cross examination.

MS. ERENSTEIN: All right.

Q (By Mr. Bibbowitz) Did Mr. Doyle hear you say this?

A I --

Q Hear this conversation?

A Mrs. Lazarro was in the back of the room, I was in the front of the room and so was Tom Doyle.

Q What tone of voice did she use in saying this?

A She was very loud.

Q I see. Did you continue to work after the strike began on December 3rd?

A Yes, I did.

Q Did you go to work on December 5th, 1975?

A Yes, I did.

Q What time did you go to work?

A It was approximately 7:05.

Q Would you tell us, what, if anything occurred on your way to work that day?

A We were going to the picket line.

Q Who were you with?

A I --

Q If you remember.

A My husband was driving. We had -- I don't remember who was in the car, but we had three other passengers.

Q I see.

A Myrtle Nicholson was on the picket line and she says, "You're going to get yours."

Q Where was she in relation to the car?

A She was on the driver's side and I was on the passenger's side.

Q I see.

JUDGE DONNELLY: Was your car stopped?

THE WITNESS: Yes, we were waiting for the picket line to be broken.

JUDGE DONNELLY: To open?

THE WITNESS: Yes.

JUDGE DONNELLY: So that you could go in?

THE WITNESS: Right.

Q (By Mr. Biblowitz) Was Tom Doyle there at the time?

A Yes, he was.

Q Where was he as compared to Miss Nicholson?

A I don't remember.

MS. ERENSTEIN: Objection. Before paragraph 8(b)? You know, there reaches a point where it's impossible to defend anything. Every single allegation has some minor variance, with names, persons who committed conduct.

JUDGE DONNELLY: Well, where the incidents were alleged specifically.

MS. ERENSTEIN: It's alleged specifically -- not in the presence of Tom Doyle. 8(b) is specifically something else. I assume that's the incident that you're proving.

MR. BIBLOWITZ: Yes.

JUDGE DONNELLY: 8 what, now?

MS. ERENSTEIN: (b).

MR. BIBLOWITZ: Your Honor, that should be Tom Doyle instead of Kevin Doyle. Other than that, the incident is the same.

MS. ERENSTEIN: Other than that -- yeah, but other than that. Every single one, other than that it's a different person. And we don't have notice of these things. We cannot defend --

MR. BIBLOWITZ: Right, this is the second time that this was changed.

MS. ERENSTEIN: And I asked -- I object.

MR. BIBLOWITZ: What other incident --

MS. ERENSTEIN: I object.

JUDGE DONNELLY: Okay. Are you making the motion to amend to show Thomas Doyle instead of Kevin Doyle?

MR. BIBLOWITZ: Yes, Your Honor.

JUDGE DONNELLY: Okay, I'll grant the motion. And you have your objection. Now by granting your motion, don't get the impression that I condone it, because I don't.

MR. BIBLOWITZ: No.

JUDGE DONNELLY: It's always more desirable to have your allegations in order before you get here.

MR. BIBLOWITZ: I understand, Your Honor. Of course, in a normal situation with a trial, I would but with so many incidents, there were very many --

MS. ERENSTEIN: I would like to say that -- well, if the complaint is what is being referred to, there aren't that many incidents. However, it may well be that we have problems putting on my defense. I may need time. I'm going to have to see, at this point, two people that I didn't plan to see and perhaps others. We've only gone through (a) and (b).

MR. BIBLOWITZ: Your Honor, let's go.

MS. ERENSTEIN: So it's been amended, is that so?

JUDGE DONNELLY: Right. Right.

Q (By Mr. Biblowitz) Have you seen both Kevin Doyle and Tom Doyle?

A No.

Q But you know Tom Doyle only then?

A Yes.

MR. BIBLOWITZ: I have nothing further of this witness, Your Honor.

JUDGE DONNELLY: Okay.

MS. ERENSTEIN: May I see your statement, please.

MR. BIBLOWITZ: Sure.

CROSS EXAMINATION

Q (By Ms. Erenstein) How did the meeting start out at the Bridgeport Motor Inn back in November?

A I don't remember.

Q Do you remember anything about the meeting, other than what you've already testified to?

A No. I don't.

Q You don't remember Tom Doyle speaking at the meeting?

A He did have a lot to say but I don't remember any of it at this moment.

Q Do you remember he said something but you don't remember what?

A Prior to our voting, yes, he did.

Q What did he say?

A I don't remember.

Q Okay. How long did the meeting last?

A Approximately about an hour.

Q An hour?

A An hour to an hour fifteen. I know that we didn't all come in on time and we all left different -- you know, staggeringly.

Q Well, when you say, took an hour, are you including the time you took to vote?

A The time up to voting.

Q Okay.

A Because I left then.

Q So what did you do during that hour, hour and a half period?

A Well, we were all discussing the voting.

Q Did different people get up and make speeches?

A Not that I remember.

Q What happened at the meeting?

A We were just discussing whether we should strike or not strike --

Q When you say discussing, does that mean that different people got up and spoke?

A No, we were all just sitting in a room, speaking to one another.

Q How many people were there, roughly? Approximately?

A About 25, 30.

Q When you say speaking to one another, you mean, maybe a few people were talking to each other, or was one person

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addressing the whole group?

A No, they were all in -- you know, like he's speaking to the person next to you and then somebody turns around and speaks to the person behind him.

Q How are the chairs arranged in this room?

A In rows. Across.

Q In rows across?

A Yes.

Q And so people were sitting there for about an hour, an hour and a half, talking to the person next to them or the person behind them?

A The only one I remember addressing the group as a whole, was Tom Doyle.

Q Okay, and who were you sitting next to?

A Sitting on the end of a row. I don't remember who was on my right.

JUDGE DONNELLY: Did you vote?

THE WITNESS: Yes, I did.

JUDGE DONNELLY: How was the vote conducted? Was it a secret ballot or what?

THE WITNESS: Yes, it was a secret ballot.

JUDGE DONNELLY: Pieces of paper?

THE WITNESS: Yes.

JUDGE DONNELLY: Wrote yes or no on the paper?

THE WITNESS: Yes.

JUDGE DONNELLY: And they collected all the papers, and counted the votes?

THE WITNESS: Right.

Q (By Ms. Erenstein) Did you vote right as you were sitting in the row, or did you go into a special room?

A No, we got up, one by one, and went into another room and wrote on the piece of paper and dropped them in the box.

Q So you never got up and addressed the group there, on that day?

A Not the group as a whole, no.

Q Now, who did you speak to that night about the strike?

A That night, I think I spoke to Mary Faneuff. And Cora Bennett. That's all I can remember.

Q Are you sure you didn't talk to them some othe time, like at work?

A Mary and Rene, I know, I talked to at work again. But, I know that Cora and Mary, I did talk to. During that meeting, briefly.

Q Briefly?

A Briefly, but I did speak to them.

Q And what did you say?

A That a strike vote was note a good idea.

Q Do you remember what --

JUDGE DONNELLY: A strike vote or a strike?

THE WITNESS: Well, a strike. A vote for a strike.

JUDGE DONNELLY: A vote in favor of a strike?

THE WITNESS: Right.

Q (By Ms. Erenstein) Do you remember what they said?

A Cora was very for the strike and so was Mary.

Q And where -- I'm sorry, you're a nurse's aid?

A Yes.

Q What was Geraldine Lazarro's job?

A Nurse's aid.

Q Had you ever spoken to her about the strike before that evening?

A No. Not to Geraldine, no.

Q And about what time did you get to the Bridgeport Motor Inn, to the meeting would you say?

A I don't remember because I got out of work and had something -- another place to go to, so I don't know.

Q You went somewhere else and then came to the meeting?

A Yes.

Q Other people were already there?

A Yes.

Q Do you recall what time you left?

A I know I made my vote and then I left. I don't know what time that was either.

Q How long were you there before you voted?

A Approximately an hour and forty-five minutes. As I said, that's how long the thing was -- while I was there. How long they conducted it beforehand or afterwards, I don't know.

Q You were sitting in the end of a row?

A Yes.

Q Towards the front? In the front row?

A In the front row.

Q In the front row?

A Yes.

Q Do you remember anybody else who was sitting near you?

A No, I don't remember.

Q And where was Geraldine Lazarro?

A She was in the back of the room.

JUDGE DONNELLY: How far away from you?

THE WITNESS About as far as Anne is from me, now.

JUDGE DONNELLY: Estimate that distance?

THE WITNESS: I'd say about ten feet.

JUDGE DONNELLY: About ten feet. Okay.

Q (By Ms. Erenstein) And when did she make your --her comment in relation to the time you voted?

A She made that comment just before we made our votes.

Q Do you recall any other comments that anybody else made that evening other than her comment?

A No, because after I had heard hers, I didn't have any interest in hearing anybody else's.

the group.

Q Do you know Marguerita Bellon?

A Yes.

Q Do you see her here?

A Yes, I do.

Q Where is she?

A She's right there.

Q Sitting next to me at the table?

A Yes.

Q Do you know Lucinda Giles?

A Yes.

Q Do you see her here today?

A Yes, I do.

Q And where do you see here?

A She's sitting in the back of Marguerite.

Q Were they present at this meeting?

A Yes, they were.

Q What about Lucy Convoy, was she there?

A Nancy.

Q Nancy, sorry. Nancy Convoy.

A I think she was, yes.

Q Where was Marguerita Bellon in relation to you -- where was she seated?

A I don't remember.

Q Wasn't she next to you?

A She was either on the right of me or in back of me. I don't remember.

Q She was very close to you, wasn't she?

A Nearby, yes.

Q During the whole time that you were there?

A Yes

Q Okay. On December 5th, do you recall who was with you in the car?

A I don't remember the names of the passengers. My husband.

Q Were they other employees?

A Yes, they were.

Q You don't know their names?

A It was just a fast thought that we all get in the car and go since the van broke down. I don't remember which three people got in my car and which three people got in somebody else's car. But there were three passengers in my car.

Q These were new employees who were hired after the strike began?

A Yes.

Q And when you arrived at the scene, how many pickets did you see?

A I didn't count them.

Q Give us an estimation.

A I don't know.

Q Two? More than two?

A There was more than two.

Q More than five?

A I can't say, because I know there was two people just standing on the right of the car.

Q Did you see a crowd of people there?

A I don't remember. I don't look them in the face.

Q Well, did you see a crowd of bodies?

A It ranged from three to six people. But -- that I seen in front of the car.

Q Did you see policemen there?

A There was a few. There was -- as a matter of fact, there was two on the left. That I did see.

Q Were they wearing uniforms?

A Yes.

Q They were standing?

A Yes, they were.

Q Did you see a couple of police cars parked outside? On the road across the street from the driveway?

JUDGE DONNELLY: What date is this that we're talking about?

MS. ERENSTEIN: December 5th.

THE WITNESS: There was -- I think there was two across the street.

Q (By Ms. Erenstein) You saw police cars?

A Yes.

Q How long have you worked at the nursing home?

A Two years and three months.

Q And, who else was at the picket line on that date, besides Myrtle Nicholson and Tom Doyle?

A Marguerite. Nancy Convoy. I don't know her name. Millie? I know her first name is Millie. I don't know her last name.

Q Anyone else?

A That's all I remember.

Q Were there any men there other than Tom Doyle?

A Not that I seen.

Q Now, you paused as the picketers spread apart?

A Yes.

Q Did you have your windows up or down?

A We had our windows up on our -- on my side. My husband had his open a crack.

Q And which side were you on?

A I was in the passenger's seat.

Q And Myrtle Nicholson was next to you?

A No, she was on the driver's side. She stood right next to my husband's door.

Q Did she say anything else?

A No.

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Q Did she say anything like, "You're going to get yours"?

A Yes.

Q And you didn't say anything to her?

A No.

Q Did you hear any other noise, by the way, other than her voice?

A Not that I remember. Her voice was a very distinctly loud voice.

Q You didn't hear anybody else yelling?

A No.

Q Weren't they all yelling?

A Not that I remember. I don't roll down the windows to hear what they have to say. It's just she was louder than the crowd. She --

Q You didn't hear anybody call you scab?

A Well, they call you scab while you're coming in and once you're through if they have anything to say to you, they say it to you. And this is what she was doing.

JUDGE DONNELLY: Well, she's asking you about on December the -- I assume this is it you're talking about?

MS. ERENSTEIN: The third day of the strike.

JUDGE DONNELLY: All right, the time of this incident that you testified to, involving Myrtle Nicholson, did anybody call you a scab at that time?

THE WITNESS: They -- well, while they were walking in front of the car, they did call scab.

JUDGE DONNELLY: You heard that?

THE WITNESS: Yes.

JUDGE DONNELLY: All right.

Q (By Ms. Erenstein) What else did you hear? Do you remember who said that?

A Who said what?

Q Called you a scab?

A They all called us a scab.

Q Do you remember anything else they called you?

A No.

Q On that day?

A No.

Q Do you remember anything else anybody said?

A Just Mrytle's --

Q Where was Tom, at that time, when Mrytle spoke to you? Or spoke to your husband to spoke to the car. She was next to your husband and you were in the passenger's side, right?

A Yes..

Q All right.

A Tom had walked in front of our car and I don't know which side he ended up on, but he was standing on one side of the car.

Q You don't know if it was on the side she was on or the

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other side?

A No.

Q You don't know if he heard anything that she said?

A I was in the car on the passenger's side and I heard her.

Q You don't know if he heard her, do you?

A I don't know. I didn't ask him.

Q Have you been going there every day? You still work there now, right?

A Yes, I do.

Q Okay, when did you resign from the union?

A November 17th.

Q And how did this come about?

A After a union meeting, in which I didn't agree with, and, the vote for strike which I wasn't agreeing with. And, Mrs. Lazarro's threat.

Q How did you go about resigning? Did you have any -- well, let me ask you this, did you have any conversations with Mrs. Meyer?

MR. BIBLOWITZ: Your Honor, I object. This is outside the relevance of direct. Outside the --

MS. ERENSTEIN: Bias?

JUDGE DONNELLY: Excuse me?

MR. BIBLOWITZ: What is this, for some kind of impeachment?

MS. ERENSTEIN: Yes, I think it goes to bias on the part of the witness.

MR. BIBLOWITZ: The fact that she withdrew from the union?

MS. ERENSTEIN: No, it's just preliminary.

JUDGE DONNELLY: All right, I'm going to let you pursue it. I'll overrule the objection. At least at this point and you can renew it if it appears that it's not anything relevant or is not for a proper purpose.

Q (By Ms. Erenstein) Did you speak to Mrs. Meyer?

JUDGE DONNELLY: About what?

MS. ERENSTEIN: About resigning from the union.

JUDGE DONNELLY: Well, is that your question to her?

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Did you talk to Mrs. Meyer about resigning from the union?

THE WITNESS: No, I didn't speak to Mrs. Meyer about resigning from the union. I asked her, after I resigned from the union, would I still have a job? And she kept me on.

JUDGE DONNELLY: Well, what did she say to you?

THE WITNESS: She told me that the -- if I was going to go out, I would have to go out with the union, or resign, because I asked her how I could have my job back, and she said, I would have to resign from the union. And so immediately, I wrote my letter, because that was the only way I was to get out unless I quit. And I didn't want to quit.

Q (By Ms. Erenstein) She told you you'd have to resign to keep your job?

A Well, I didn't want to quit. I had a choice, either resign or quit.

EXAMINATION

Q (By Judge Donnelly) You mean, resign from the union, or quit your job?

A Right, to get out of the union. This was the way I understood it.

Q I'm not sure I understand.

A Well, I wanted to stay employed at Southport Manor.

Q Yes, okay.

A But I didn't want to be in the union. I did not want to go on strike.

Q All right.

A So she said, to get out of the union, I would have to send them a letter of -- that I have resigned.

Q Send the union a letter?

A Right.

Q Yes.

A So unless I wanted to get out of the union and get out of Southport Manor, I would quit. And I didn't want to leave Southport Manor, I wanted to leave the union. So I sent in a letter of resignation.

Q Did she tell you why you would have to resign from the union, in order to work there? Keep working --

A No, that was my choice, by -- whether I wanted to resign from the union and why.

Q Yeah, but if you didn't resign from the union, was it your understanding that you couldn't work there anymore?

A No, if I didn't resign from the union, I should have stayed with the union and been outside picketing. This was the way I understood. You went one way or another. You went with them or against them.

Q All right.

FURTHER CROSS EXAMINATION

Q (By Ms. Erenstein) How did this conversation come about?

A I went in to her office and asked her.

Q Asked her how you could keep your job?

A Yes.

Q What was your salary? What was your wage at the time of this thing?

A $2.85.

Q What is it now?

A $2.85.

MS. ERENSTEIN: I have no more questions.

JUDGE DONNELLY: Okay.

MR. BIBLOWITZ: I have redirect.

JUDGE DONNELLY: Go ahead.

REDIRECT EXAMINATION

Q (By Mr. Biblowitz) Miss Leko, this conversation that you had with Miss Meyer, did she say to you that you could be fined by the union for crossing the picket line? That the union can impose a fine on you if you were a member of the union and you continued to work and crossed the picket line?

A If I was a member --

MS. ERENSTEIN: That's a leading question and I object.

MR. BIBLOWITZ: Well, you brought the subject up.

JUDGE DONNELLY: Well, I know, but still, I'll sustain it.

Q (By Mr. Biblowitz) Did Miss Meyer ever say anything about fines at this meeting?

A Mrs. Meyer told me that if I stayed in the union and crossed the picket line, that the union had the right to fine me. So this also was a reason for me to resign from the union if I wanted my job.

Q All right.

MR. BIBLOWITZ: I have nothing further.

RECROSS EXAMINATION

Q (By Ms. Erenstein) I'd like to know the conversation from beginning to end. How did it start and tell us as much as you can recall. What she said to you and what you said to her back and forth. And if you -- well, let me ask you. Before we do this, did you have more than one conversation with her about this?

A No.

Q You just had one?

A Yes.

Q All right. Let's start from the beginning.

A I went into her office and I asked her if I could have my job after the -- you know, during the strike. And she said that either I was with or against the union. And it was my choice. And I told her that I wanted to keep my job. So she told me that they had the right to fine me if I crossed the picket line without giving them a notice of resignation.

JUDGE DONNELLY: Right to fine you, you said?

THE WITNESS: Yes.

JUDGE DONNELLY: For crossing the picket line?

THE WITNESS: Right.

JUDGE DONNELLY: All right, I thought you said fire. Go ahead.

Q (By Ms. Erenstein) Go ahead.

A And, I had written then a letter of resignation to them for four reasons.

Q Not the -- you had written it before you had gone to see her?

A No, it was --

Q I want to know what else happened in that conversation.

A Well, if she hadn't told me, I wouldn't have known that the union had rights to fire -- to fine people after they crossed a picket line during a strike.

Q She never -- you asked her about your job?

A Right.

Q And what did she say about your job?

A She told me I could have my job as long as I wasn't in the union, because it -- well, for my own benefit. As long as I wasn't in the union. But she told me I had a job there. My job was still open to me.

MS. ERENSTEIN: No more questions.

JUDGE DONNELLY: Okay, you're excused. Thank you.

THE WITNESS: Thank you.

(The witness was excused.)

JUDGE DONNELLY: Let's go off the record.

(Discussion off the record.)

JUDGE DONNELLY: Back on the record. Counsel, all set?

MR. BIBLOWITZ: Yes, Loren Bradley Sherman.

JUDGE DONNELLY: Would you raise your right hand, please.

Whereupon,

LOREN B. SHERMAN

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was called as a witness by and on behalf of the General Counsel, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Okay, sit down. Tell the Reporter your name and your address?

THE WITNESS: Loren Bradley Sherman.

MS. ERENSTEIN: You've got to say it loud enough so I can hear.

THE WITNESS: Oh, Loren Bradley Sherman. 172 John Street. Southport.

MS. ERENSTEIN: Southport?

THE WITNESS: Yes, Southport.

DIRECT EXAMINATION

Q (By Mr. Biblowitz) By whom are you employed, Mr. Sherman?

A Southport Manor Convalescent Home.

Q How long have you worked at Southport Manor?

A Since December 3rd.

Q December 3rd of '75?

A Right, the beginning of the strike.

Q What job do you have at Southport?

A I drive a van that picks up employees. At a certain point, and delivers them to Southport Manor.

Q In and about --

MS. ERENSTEIN: Excuse me, could I ask that the

Witness -- I anticipate that he's going to testify very quickly and I would ask him if he would slow down, please.

JUDGE DONNELLY: Yeah, try to talk a little slower, please.

THE WITNESS: Okay. All right.

Q (By Mr. Biblowitz) In or about early December, 1975, that's the beginning of December, 1975, did any representative of the union speak to you as you were going to work?

A Yes.

Q What -- do you remember the date?

A It's maybe three to four days into the strike. So that would make it the 5th, the 6th, somewhere around there.

Q I see. What time of the day was that?

A About 3, I think.

Q I see. And who spoke to you and what was said?

A Kevin Doyle stopped me. He was walking in front of me and he stopped me and --

Q Were you driving the van at that time?

A No, I was driving my vehicle. My truck.

Q I see.

A And as I was entering, he -- I had just got this truck. You know, very recently, and he said, "That's a nice truck you have there, Sherman. And I'm going to take care of it." And that's about all he said.

Q I see. What occurred after -- did anything occur to

JUDGE DONNELLY: Let me ask you this.

THE WITNESS: Yes.

EXAMINATION

Q (By Judge Donnelly) Was this your van? Was this your property -- your van?

A Yes. It was mine.

Q Well, what were you -- you were driving employees back and forth to Southport.

A Not that -- you see, that's not my van. My vehicle is a truck. I have a truck myself that I was driving to work and Southport Manor has a van that I drive for them.

Q Yes.

A Now, their van is on their property all the time except when it goes out. My truck goes home with me and that night, it had been damaged.

Q This wasn't the same vehicle that you were driving because of your work?

A Right.

Q Do you take this vehicle back and forth to work?

A My vehicle?

Q Yes.

A Yes, I take it back and forth to work.

Q When you get to work, you drive --

A I take theirs.

Q The company van?

A Right.

Q Now, when reference was made by Kevin Doyle that it's a nice truck and I'm going to -- what was he referring to? Was --

A Well, it was --

Q What were you driving at the time he said that to you?

A I was driving my truck.

Q So the reference was made at least --

A Right.

Q -- you felt, to the truck you were driving?

A Yes, I think it's a nice truck.

Q All right, but that's what you were in at the time you -- he made the remark?

A Right.

Q To you?

A Yes.

Q You were driving your own vehicle?

A To work.

Q All right. Okay, I want to be -- I wasn't sure from your testimony whether you were talking about the van or your own car.

A My own truck.

JUDGE DONNELLY: All right.

FURTHER DIRECT EXAMINATION

Q (By Mr. Biblowitz) Was any envelope found near the is still around though. Somebody's got it.

JUDGE DONNELLY: Just answer the questions.

THE WITNESS: All right.

JUDGE DONNELLY: Okay, go ahead.

Q (By Mr. Biblowitz) Now, after this incident, were you still driving employees to work?

A Yes, yes.

Q Shortly after this incident, did Kevin Doyle ever speak to you again as you were driving employees to work?

A Yeah, I think it was -- yeah, about a couple of weeks later, he said that he was going to kill me.

Q Well, tell us, where did this occur?

A This was on the picket line. I was entering. I was coming in to the Manor --

JUDGE DONNELLY: Your own car? Your own vehicle?

THE WITNESS: No, I believe it was in the van.

JUDGE DONNELLY: In the van?

THE WITNESS: The Southport Manor van. Their vehicle. And, he said to me that he was going to -- Kevin said, "Sherman, I'm going to kill you." He personally was going to kill me. And I -- after what had happened to my truck, I went to the Fairfield Police to report that. That he was going to -- that he had made that threat.

JUDGE DONNELLY: How long after the incident with your truck did you have -- did --

THE WITNESS: -- Kevin say that?

JUDGE DONNELLY: Kevin say this to you?

THE WITNESS: A couple of weeks. Maybe about a week and a half to two weeks.

JUDGE DONNELLY: Okay.

Q (By Mr. Biblowitz) Now, did you then go down to the -- you say you went to the police to file a complaint?

A Yes, because he said he was going to kill me. And, I -- when I was going there, Marilee Millstein who I -- as I know, she's a member of 1199, an organizer, followed me to the police station.

Q Now, when she followed you, were you in your car?

A Yeah, I was in my vehicle. And she followed me to the police station and I went to the front desk and she followed me to the front desk and I told the policeman at the front desk that I wanted to make a complaint, that one of the organizers said he was going to kill me. And he said, "Well, go up to the detective bureau." And so I went up the stairs, to the detective bureau. And Marilee followed me upstairs and when I went into his office, she waited outside the door, and, when I -- let's see, then I finished, after I finished and some time went by, I came back out. And I turned, you know, to go down the stairs and as I was walking down the hallway towards the stairs, she started stepping on my heels. And she was walking right -- and

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stepping right on my heels and so I turned around to her and I told her to cut it out. You know, what was the problem, just leave me alone. And she then said that no one from this union will kill you but someone ought to. And she said that I was a mother-fucking idiot for doing what I was doing. And I went down the stairs and I left. And that was about it.

Q Since that time, have there been any occasions where any of the pickets or the Doyles have said anything to you as you were crossing the picket line, or done anything to the van?

A Oh, the van is -- Marilee has been arrested, I think, two or three times --

MS. ERENSTEIN: I'm going to object. And I ask that that be struck.

JUDGE DONNELLY: Sustained.

Q (By Mr. Biblowitz) Tell us what you have witnessed to your van or you have heard said --

MS. ERENSTEIN: I would ask that they be taken one at a time according to date so I can object.

Q (By Mr. Biblowitz) Tell us approximately when they occurred?

A Well, Kevin has said that he'd like to get me after the strike was over -- he'd like to know where he could find me --

Q When was --

A And you ask when, that's almost impossible, because it's almost said daily or weekly, you know. I mean, it's -- you know, daily, I crossed this picket line and numerous times a day, I do it.

JUDGE DONNELLY: The strike began the third of December, is it?

THE WITNESS: Yeah.

JUDGE DONNELLY: How many times, from the beginning of the strike, to date, have you heard that type of remarks?

THE WITNESS: Threatening me like that, you mean?

JUDGE DONNELLY: Yes.

THE WITNESS: Well, it's happened every week since the beginning of the strike. It has -- and almost daily. Every day he's there. He's not there every day. But almost every day he's there. You know threats --

MS. ERENSTEIN: I'd like to make an objection, again. This is very, very difficult, at this juncture, to defend against something that was said every day. This ought to have been in the complaint. More or less specific things that are said and there are no general allegations of this type in the complaint --

JUDGE DONNELLY: Yes. All right, I'll overrule your objection. Go ahead.

Q (By Mr. Biblowitz) In addition to these statements by authorized, or that he had at least seen it or something, in order for it to qualify as a statement of his.

MS. ERENSTEIN: Let me ask you this --

JUDGE DONNELLY: Go ahead.

CROSS EXAMINATION

Q (By Ms. Erenstein) You met with an attorney -- you met with Mr. Biblowitz for the last few days, didn't you, to discuss your testimony?

A Yes, of course.

Q Did he show you any statements?

A This --

Q To read over?

A To sign -- you know the one --

Q In the handwriting?

A Yeah.

Q He didn't show you any typed statements?

A No.

Q There was no typed statement attached to the handwritten statement?

A No, he gave me a copy of my statement.

Q Did you ever meet with the attorney for the nursing home?

A Mr. Giovenetti?

Q Yes. Mr. Sneider?

A I don't know about Mr. Sneider -- I know about --

A Kevin is there usually.

Q What does Kevin look like?

A Kevin looks just like Tom. I mean there's no way to describe him except that he's got a beard and a moustache [illegible] hair on his head, but that's the same description as [illegible] Tom Doyle. They both look the same.

JUDGE DONNELLY: Well, they're not twins, are they?

THE WITNESS: No, but they're brothers and they're only a couple of years apart. I think maybe Tom is a little older and he's got darker hair, but that's about it.

Q (By Ms. Erenstein) Is there any difference in size?

A Yeah, I think maybe Kevin is a little shorter. And a little plumbier.

Q How often have you seen Tom Doyle there?

A Well, he's been there quite a bit now that Westport Manor is closed.

Q Since what date, would you say?

A The 15th of last month.

Q Before that time, did you see him often?

A Not often. He wasn't there as much as Kevin. But he was there.

Q How often?

A Weekly. Maybe once a week, you know. But not as much as Kevin. Kevin was there daily.

Q When did you have a conversation with Kevin about the

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truck, do you recall? When that was?

A Yeah, it was about the 5th or the 6th.

Q About the second or third day of the strike?

A You mean, about my truck being -- the statement he made about my truck?

Q Yes.

A Yeah, that was about the second or third -- well, about the third or fourth day. Fifth or sixth. Of December, of '75.

Q It was right around the beginning of the strike?

A It sure was.

Q Were there police present?

A Yes.

Q How many?

A About eight.

Q Do you recall anybody else besides Kevin -- that you had a conversation with?

JUDGE DONNELLY: Let me -- did the police do anything? Did any of the police hear the remark that Kevin made to you about your car?

THE WITNESS: I haven't talked -- I don't know if they did or not. I don't know who was on duty -- I don't know who the officers were. But they were nearby. They could have heard. I mean, I heard it so they could have heard it.

JUDGE DONNELLY: But you don't know?

THE WITNESS: I don't know. I can't say.

JUDGE DONNELLY: Excuse me, I'm sorry. Go ahead.

Q (By Ms. Erenstein) Who else was present at this time?

A Mary Hill. And, I guess, Cora Bennett. I don't know -- Cora Bennett was there. And Casey Benson.

Q Was that Casey Benson?

A That's how I know her, Casey Benson.

Q Where was she?

A I think she was on the left of my truck.

Q And where was Kevin?

A On the left of my truck. Well, on the driver's side.. They were both on the driver's side.

Q And Mary Hill?

A She was on the right.

Q She wasn't standing on your side?

A No.

Q Do you mean the right?

A I mean, she was on the passenger's side. Let's do it that way. Driver and passenger.

Q Who else was on the driver's side?

A I don't know. I know Cora was on the passenger's side. I can't remember who was on the driver's side.

Q Where was Mary Hill?

A She was on the passenger's side.

Q Are you sure she was?

A Yeah, I'm sure.

Q Do you have the letter with you that you found? Well, who found it, you didn't say.

A I found it.

Q When did you find it?

A When did I find it?

Q Yes.

A Sunday morning.

Q What did you do with it?

A I gave it to the Police Department.

Q Did you keep a copy? Did you make a copy?

A No, I don't think so. No.

Q You didn't see Roosevelt Wood, then, that day, did you?

A I sure did.

Q He was there, too?

A Oh, yeah.

Q Well, you didn't mention that when I asked you --

A Well, I told you that he was there daily at the beginning of the strike. He was there daily. I told you that before.

Q I asked you who was there -- well, who else was there -- Roosevelt Wood was there?

A I said in the beginning of my testimony --

Q I'm talking about 3 o'clock on the day -- on this day, the first three, four, five, or six days of the strike, who was there?

A You're talking about the day before -- the day that that statement was made.

Q I'm talking about when Kevin Doyle made the statement --

A The statement --

Q I asked you who was there?

A All right, well, I also said at the beginning of my testimony that Roosevelt Wood was there daily. He was there, all right?

Q When did he stop coming daily?

A About a month and a half after the strike started.

Q And he was there from what time until what time?

A It differed, I told you. Sometimes he was there 7 in the morning. Sometimes he was there 3 in the afternoon.

Q And what time was he there on that day?

A 3 o'clock in the afternoon.

Q Where was he standing?

A I have no idea. I can't remember.

Q Are you sure he was there?

A Yes, I'm sure he was there. Yes, what do you want me to do? Say it twice? Yes, I knew he was there.

JUDGE DONNELLY: I think that's enough now.

Q (By Ms. Erenstein) Do you remember where he was?

A No, I don't.

Q Do you know if he was present at that particular time, at that particular location, when that conversation took place?

A I said, yes, he was there at the picket line when that statement was made by Kevin Doyle. Do you want me to say it again?

Q Well, there's a certain space -- a geographic space and I'm trying to locate him -- not everyone who would necessarily be present standing where Kevin Doyle is.

A That's right.

Q I'm trying to ascertain --

A No, he wasn't standing where Kevin Doyle was standing. No.

Q He wasn't on the passenger side?

A I can't --

Q He wasn't on your side?

A No, he wasn't on my side.

Q And you don't recall where he was?

A No, he could have been in front of me. He could have been behind me. He could have been over by the barrel. He was on the line though.

Q Who else was on the line?

A I don't remember.

Q I believe you've already mentioned that you gave a statement to a representative of the National Labor Relations Board.

A Yeah, a written statement.

Q Would you take a look at this statement, please, and tell me if that's the statement?

JUDGE DONNELLY: Look at the back page and see if that is your signature.

THE WITNESS: Yeah, that's my signature.

JUDGE DONNELLY: What's the date on it, by the way?

THE WITNESS: 1/9/76.

JUDGE DONNELLY: Go ahead.

Q (By Ms. Erenstein) You swore to the truth of this statement?

A To the best of my knowledge, yes. That's what he told me, to the best of my knowledge. That you realize is a month later, but it was to the best of my knowledge --

JUDGE DONNELLY: Just answer the question.

Q (By Ms. Erenstein) We're now five or six months later.

A Right, right. So it's all the harder to recall.

Q You didn't make any statement to them at that time about Roosevelt Ward, did you?

A What do you mean, about Roosevelt Ward?

Q In connection with this incident. Would you like to read it and see if you did?

JUDGE DONNELLY: Is this the question you want to ask him? Did you tell them in that statement that Ward was present on the picket line at this incident on December 5th or 6th?

THE WITNESS: I don't think so, no.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) Now, when, in relation to that, did Marilee follow you to the police station?

A On or around --

MR. BIBLOWITZ: Your Honor, could I just clarify one thing. I think Ms. Erenstein is confusing the incident. I think you're referring to -- prior to the truck statement. The Millstein incident, I think -- I don't mean to testify but --

MS. ERENSTEIN: Well, we'll ask him to leave the room.

MR. BIBLOWITZ: Okay. I just want to clarify things, because I think the question is confusing. It refers to the wrong incident.

JUDGE DONNELLY: Let me go on. If it is, it will become apparent.

MR. BIBLOWITZ: Fine.

JUDGE DONNELLY: Go ahead, again. How long after the December 5 incident with Kevin Doyle, did you go to the police station? Before or after that incident?

THE WITNESS: It was after that. About the 17th or 18th of the month.

JUDGE DONNELLY: All right.

THE WITNESS: He sait to me that --

Q (By Ms. Erenstein) Now, wait a second. I'm asking about Marilee.

A Right. All right, I'm telling you why I went to the police station.

Q I didn't ask why. All I asked was how long --

A Oh, all right, it was the 17th or the 18th, all right?

Q 17th or 18th?

A Right.

Q Now, had she been following you all along during the strike?

A I had been followed before, yes.

JUDGE DONNELLY: By her?

THE WITNESS: Yes, and by Kevin. And the whole van was followed occasionally, too. So there was a whole van load of people that were followed.

Q (By Ms. Erenstein) When you were going to the police station on this day, where were you coming from?

A Southport Manor. She picked me up there. And followed me from there. From Southport Manor to Fairfield Police Department.

Q What time of day was this?

A Afternoon, after the 3 o'clock run. I got through about

3:30.

Q Okay. And what happened?

A I drove to the police station, got out, parked my car.

Q She saw you coming out of the driveway and jumped in to a car?

A No, I think she was sitting in a car. It was cold. It's the middle of the winter. And it was cold and most of the people sat in their cars when the van was through going through and the change of shift, people would get back in their cars. Because it was cold to stand out there. So the was sitting in her car. And when I got in -- when I left the driveway, she started following me. And she followed me into the police station and I pulled into the parking lot. And, I parked and walked inside and she followed me in. And then I went to the front desk and I asked them -- that I wanted to make a complaint about --

Q I think you already testified to that.

A Yeah, I know. I don't see why you want all this?

Q What?

A I said all this before.

Q I'm trying to find out, when did she attack you?

A She never attacked me. She stepped on the heels of my shoes upstairs in the police station. She never attacked me.

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Q Where?

A You go upstairs, you make a left, you go into the Detective's Bureau and that's where I was going and on my return, coming out, she was stepping on my heels.

Q Did you report this to the police?

A No, I did.

Q How big was she?

A I don't know. She's about 5'5". I don't know. She's around there, I guess.

Q Was she pushing?

A No, she just stepped on my heels, and, then verbally attacked me.

Q How did she verbally attack you?

A She called me a Mother-fucker. A Mother-fucking idiot for doing this job.

Q What job? Do you mean driving the van?

A Yes, she said that no one from the union would kill me, but someone ought to.

Q All right.

JUDGE DONNELLY: Let's be off the record for a few minutes.

(Discussion off the record.)

JUDGE DONNELLY: Okay, let's be on the record. All right, we'll adjourn for the day. Let me tell you not to discuss your testimony with anyone. We'll resume tomorrow

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PROCEEDINGS

JUDGE DONNELLY: On the record. Let me remind you then, on the record, that you're still under oath. I won't swear you again today, but I remind you that you're still under oath as you were yesterday. Okay, we'll resume the questioning.

Whereupon,

LOREN B. SHERMAN

resumed as a witness, and after having been previously duly sworn, was examined and testified further as follows:

CROSS EXAMINATION

Q (By Ms. Erenstein) You drive through the picket line several times a day, don't you?

A Yeah, more than anyone else, really.

Q And sometimes roll down your window and converse with the people at the picket line, don't you?

A Not in the winter months, because it was cold, but now that it is summertime I do keep my window down, you know; that's my right I think.

Q How many times have you come to the picket line and called the women shiteaters?

A I don't think - - - -

JUDGE DONNELLY: First of all, let's establish whether he did it or not, then we'll get to how often?

Q (By Ms. Erenstein) Did you?

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A Oh I've done it, yes.

Q How many times?

A I really don't think I direct those comments to the women, I think they're directed mainly to the men on the line.

Q How would you distinguish if they were in a crowd?

A "Kevin, you are - - - - -," that's how - - - -

Q How would you distinguish in directing them?

A I would say their name. I would say,"Kevin, you are a shiteater", or "Tom, you are a shiteater", or "Roosevelt"; I would direct them toward the men, or the boyfriends of the girls on the line. I don't think I've ever directed a comment to the women.

Q Didn't you call Nancy Conboy "Pussyface"?

A No, I never recollect calling her that.

Q Didn't you cut her off with a car when she was driving up there, and stop her and call her that?

A No.

MR. BIBLOWITZ: What's the time, some period of time?

MS. ERENSTEIN: Well, if he's denies it, what difference does it make what the time is.

THE WITNESS: I remember that incident, and I was heading up Mill Hill Terrace and she was coming off of her street there, and she put her car on my side of the road.

Q (By Ms. Erenstein) You just denied it.

A No, I didn't deny it, no.

Q Did you call her "Pussyface"?

A I'm denying that.

Q What about "Assface", did you ever call any of the pickets "Assface"?

A No, I know that. I'd know if I used that word.

Q What about "Whores"? Did you call the women "Whores"?

A Yes.

Q Many times?

A No, not that many.

Q Well, how many times did you call them "Whores"?

A In the past five and a half months, maybe fifteen times.

JUDGE DONNELLY: This is since the strike started?

THE WITNESS: Since the beginning of the strike.

Q (By Ms. Erenstein) And how many times did you say "Fuck you" to them?

A Not that often.

Q How often?

A Maybe three or four times, five maybe.

Q And how many times did you say "You mother fuckers"?

A I don't use that word.

Q And how many times did you say "You cock suckers"?

A I don't use that word.

Q You never said any of those things?

A No.

6 JUDGE DONNELLY: Well first, Counsel, you should ask him if he used the words, because you ask him how many times before you've established whether or not he used the words.

MS. ERENSTEIN: I'm sorry, I'm making an assumption. Well, he's denied it now, so I won't - - -

JUDGE DONNELLY: Yes, all right, but it's more proper to ask whether or not something was done, and then how often.

Q (By Ms. Erenstein) Are you familiar with the use of the middle index finger?

A Oh yes, very familiar..

Q What does that mean?

A Well I guess it means "Fuck you".

Q Have you ever done that?

A Yes.

Q Many times?

A A few.

Q When you crossed the picket line?

A Yes.

Q In the direction of the pickets, right?

A Yes.

Q Your mother works at the Nursing Home, doesn't she?

A Yes she does.

Q What does she do there?

A Well, she's kind of --- she works in the office, I guess kind of as a secretary, assistant to the Administrator.

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Q And before Mrs. Meyer became the Administrator, wasn't your mother acting in that capacity?

A No, she's not licensed for an Administration job.

Q Was she in a Management position?

A That's hard to define. She took over, you know, most of the business that went on there. Mr. Garofolo was the Administrator before Anne.

Q She assisted him?

A Yeah, in the same capacity as she assists Mrs. Meyer.

Q How long has she been there.

A She's been there since the first day the place opened.'

Q How long is that?

A That was six years ago April 28th, somewhere around there.

Q Now, when you first came to the picket, you started working on the first day of the strike, right?

A Yes.

Q Would you say that there were more picketers at the beginning of the strike, than there are now?

A Yes, but I've noticed that there's an increase now in the past few days, the amount of people on the picket line in the mornings and the afternoons. It has increased, there were more in the beginning, yes.

Q About how many were there on the first day, do you remember?

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A The first day, well, it was five o'clock in the morning and it was awful dark, I'd say maybe about thirty-five maybe, that's just a rough estimate, about thirty-five.

Q There was a crowd of people there?

A A big crowd.

Q And would it be true, there was a crowd of people for the first few days?

A Well, for quite a while, yeah a big crowd.

Q Would it be accurate to say there were about twelve or fifteen people there at any given time?

A In the beginning, yeah.

Q And there were a lot of cops there, too, weren't there, from the beginning?

A Yeah, in the beginning they didn't know what to expect, I guess.

Q How many police were there in the beginning, in the first day, do you recall? Just roughly.

A The first day? There were a lot because I called them and I was kind of upset about it, when I called them at five o'clock in the morning. That morning I called them and told them that there was a big crowd of people there, and that they wouldn't let us in.

Q Where did you call them from?

A Well, I went to the Manor to bring my mother to work at five o'clock, and they wouldn't let us in, and so I went up the street to a friend of mine's house, he lives up the street. I know him well enough so I know where he keeps the key to his front door and I went in the house, and I just picked up his phone and I dialed the Fairview Police, and I told them that there was a crowd of people and that they'd better get down there pretty quick; and they were down there within two minutes and then they broke the line, and I'd say there was probably about fifteen cops.

Q And how many were there of them in December, over that whole period of time?

A About fifteen.

Q At all times?

A No, not at all times, no, the change of shifts.

Q About fifteen at the change of shifts?

A Yeah, and then there was the big argument about it and then they were taken away.

JUDGE DONNELLY: When did you go in on the first day?

THE WITNESS: Five o'clock.

JUDGE DONNELLY: Didn't you just say that you couldn't get in when you went over?

THE WITNESS: Right, so we went in about a quarter after five, when they broke the line.

JUDGE DONNELLY: So you didn't go in until the police came?

THE WITNESS: Right.

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JUDGE DONNELLY: What did the police do?

THE WITNESS: The police, they put up a barricade and told the pickets to break the line so we could get in.

JUDGE DONNELLY; Is that when you went in?

THE WITNESS: Yeah. I guess we were about the first car to cross the line.

JUDGE DONNELLY: You and your mother?

THE WITNESS: Yeah.

Q (By Ms. Erenstein) What time does the shift come in?

A Seven to three, so they come in, say a quarter to seven, six-thirty, somewheres around there.

Q Now, you say there were about fifteen policemen there at the shift change times throughout that month?

A The month of December, yes.

Q And many times weren't they standing right next to the pickets?

A Oh yeah, the pickets would be walking and then when a car would come, the pickets would break the line and the police would walk right in front of them.

Q So they were right there?

A Yeah, oh yeah.

Q Did the pickets make a lot of noise?

A Yeah.

Q They were yelling things, too, right? They were yelling all kinds of things?

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A Oh yeah.

Q They were calling "Scabs" and calling people names?

A Oh yeah, yeah.

Q When you would come in, in the beginning of the strike, there would be a lot of noise, wasn't there?

A Yeah.

Q That would be happening, more or less, whenever anybody would cross the picket line?

A Whenever a car went in, yeah. Visitors, whatever.

Q By the way, you mentioned yesterday that on February 28th, Kevin Doyle, Tom Doyle, and Roosevelt Ward, that they had pounded on your van with their fists, can you tell us anything more about that? What time of day was that?

A That was coming in on the three o'clock shift. I had Nurses in there who made complaints to the Fairview Police.

JUDGE DONNELLY: What kind of Nurses? Who worked at the Southport?

THE WITNESS: Yeah, RN's that worked at the Manor.

JUDGE DONNELLY: They're RN's?

THE WITNESS: Yeah, and there were LPN's, too.

JUDGE DONNELLY; How many were in the car?

THE WITNESS: In the van, I guess I had thirteen or fourteen.

JUDGE DONNELLY: How many can you take in the van?

THE WITNESS: Fifteen.

17 A No, they did not go down and make complaints.

Q You did mention that the Nurses made complaints?

A They made complaints. Police came to the Manor and I'm not sure if they took statements, but they did make complaints.

Q Did they make them against Tom or Roosevelt?

A I don't know. I don't think so. I don't know what their statements were.

Q So you don't know if they made complaints, or you didn't see them do this?

A No.

Q Who is Raymond Lambert?

A Husband to a picket.

Q Where was he standing?

A Those three were standing right at my door.

Q Which three?

A Kevin, Mike and Raymond were standing at my door, and they were pounding right there.

Q Where were they pounding?

A On the door, on the whole side of the door of the van, in the immediate front area.

Q And where were the police?

A The police were, let's see, they were standing there.

Q You testified also yesterday about how one day you left the Nursing Home to drive to the Police Station, and Marilee

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Millstein who was sitting in a car, followed you there?

A Yes.

Q Are you sure about that? Are you sure that that's what happened?

A Well, I'm absolutely sure that she was in the Police Station with me. Now, I think she picked me up from the picket line, I'm pretty sure.

Q How sure?

A I'm almost sure because as I was heading down the road, as soon as I looked in the rearview mirror, she was there, all right, she was right there.

Q Where did you see her in the rearview mirror for the first time?

A About 100 yards from the entrance to the Manor.

Q You sure about that?

A Yes, yes, I'm sure about that, she was on Mill Hill Terrace.

Q What was she in?

A She was in her little yellow car, I don't know what make it is.

Q Are you sure?

A Yes. Yes, I'm sure, and when we got into the Police Station though, upstairs there were a couple of Detectives who saw her waiting outside the door.

Q Are you absolutely sure she followed you in a car?

A Yeah.

JUDGE DONNELLY: You asked him that several times.

THE WITNESS: Yes, I answered it several times.

MS. ERENSTEIN: I have no further questions.

JUDGE DONNELLY: Let me ask you. You testified that at various times, as you came back and forth through the picket lines, you used such names as, called the women "Whores", and said "Fuck you" and gave them the finger and things like that. Why did you do that?

THE WITNESS: That was a result of what they were doing to me. They were saying things that were unbelievable like, "My mother eats dog shit","I sleep with my mother, my mother is a drunken whore". Cora Bennett continually says, right now to this day every morning, and when I'm coming out from doing the six o'clock run, my mother is still home sleeping and she goes to work at nine, and she continually tells me every single day, "Go wake up your drunken mammy, go wake up your drunken mammy".

Now if you go through that for five months, one little slip of the tongue "Fuck you" is, you know - - - - I mean it's unreal the things they say.

JUDGE DONNELLY: Well, when did you first use any of this uncomplimentary language? Did you do that right from the beginning of the strike?

THE WITNESS: No, after about a couple of weeks. Two

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or three weeks, maybe. Just going through the picket line twelve times a day puts people saying that.

MR. BIBLOWITZ: Just one question, Your Honor. The envelope that you found with Roosevelt Ward's name on it, where is that envelope now?

THE WITNESS: It's at the Fairfield Police Station, I think. They took it, and they probably have it.

MR. BIBLOWITZ: I have nothing further.

JUDGE DONNELLY: Anything else?

Q (By Ms. Erenstein) What was in it?

A Nothing was in it. It was opened and it was just an empty envelope.

Q Could you fix a date in time when you started using this language? I told you that the strike began on December the 3rd, when would you say you started using it?

A 20th of December.

Q You didn't use it right from the beginning?

A Oh no.

Q Not even on the first day?

A No.

Q Or the second?

A No.

Q Or the third?

A No, No. I said the 20th.

MS. ERENSTEIN: Nothing else.

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JUDGE DONNELLY: ANything else?

MR. BIBLOWITZ: No.

JUDGE DONNELLY: You're excused.

MR. BIBLOWITZ: Nicholas Bonaiuto.

JUDGE DONNELLY: Would you raise your right hand?

Whereupon,

NICHOLAS BONAIUTO

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Okay, sit down and tell the Reporter your name, and your address.

THE WITNESS: Nicholas Bonaiuto, B-O-N-A-I-U-T-O, 8 Richardson Street, Bridgeport, Connecticut.

DIRECT EXAMINATION

Q (By Mr. Biblowitz) Mr. Bonaiuto, by whom are you employed?

A I'm employed by Southport Manor Convalescent Home.

Q In what capacity?

A Supervisor of maintenance.

Q And how long have you worked at Southport?

A Approximately 2½ years.

Q Did you continue to work at Southport during the strike?

A Yes I did.

Q Did you go to work on February 17th, 1976?

A No.

Q No, did you try to go to work on that day?

A I did.

Q Could you tell us what, if anything occurred, in your attempt to go to work that day?

A I drove to work, got as far as - - -

Q What time was that?

A 7:30 in the morning.

Q Anybody else in the car with you?

A No, I was all alone.

Q What occurred at that point?

A I got as far as the entrance to the Convalescent Home, and there were no police, and the pickets were picketing, so I drove up and stopped and waited for them to make their three circles. They made their three circles, they made four and would not open up, so I inched a little bit with the car, nothing happened. So at that point I waited, figuring that they wanted a little more time but they still didn't open. So while waiting I noticed a little van leaving the Convalescent Home, so I figured, well when he came down to go through the line I would go through, too; but he stopped, we were both stopped as a matter of fact.

JUDGE DONNELLY: Who's he? Sherman?

THE WITNESS: The driver of the van, the little - -

JUDGE DONNELLY: Southport van?

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THE WITNESS: No. This is a young lad from the laboratory. comes up and picks up specimans, blood specimans.

JUDGE DONNELLY: This wasn't Sherman?

THE WITNESS: No, no.

JUDGE DONNELLY: Do you know Mr. Sherman?

THE WITNESS: Yes I do.

JUDGE DONNELLY: It wasn't him?

THE WITNESS: No. I was not him.

JUDGE DONNELLY: All right, go ahead.

THE WITNESS: This was the little van from the laboratory, let's say. So he was waiting, and at that poing Kevin Doyle beckoned the little laboratory van to come on, and he put his hand up and held me back.

Q (By Mr. Biblowitz) Where was he standing at that point?

A At that point there, he came over and stood in front of my car and the pickets were still going around, but the little van did not move. So then he waved him on, the van came down, so the line opened, but with him standing in front of my car I couldn't go anywhere. So I tried to move a little bit more and the van went through but I did not, because he blocked me, and with that point he put his hands behind him, feeling for my radiator or the front of the nose of my car. When I saw his hands go in the back of me, I backed up.

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Q Why did you back up?

A Because he gave me the impression that he was feeling for my car with his hands in back of him, he wanted to jump up on my hood.

MS. ERENSTEIN: Objection. He wanted --- I object to this.

MR. BIBLOWITZ: Might explain his later actions.

JUDGE DONNELLY: Overruled, I think that's admissible. Go ahead.

Q (By Mr. Biblowitz) What did you do at that point, sir?

A When I saw his hands go in the back, he was feeling for my car, I put the car in reverse and backed up about two feet. So at that point he turned around and found I wasn't there. So I waited at that point there, and this picket line had still kept going around in circles and nobody would open up. So at that point I just backed up completely and got back on the road and continued on home.

Q And you didn't go to work that day?

A I didn't go to work that day at all.

MR. BIBLOWITZ: I have nothing further.

MS. ERENSTEIN: Can I see his statement?

JUDGE DONNELLY: Want to show?'

MR. BIBLOWITZ: Yes, I guess to show that I've given Counsel for the Respondent a copy of the affidavit.

JUDGE DONNELLY: Just one statement?

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MR. BIBLOWITZ: Yes, just one statement.

JUDGE DONNELLY: All right, let's be off the record.

(Discussion off the record.)

JUDGE DONNELLY: Let's be on the record.

CROSS EXAMINATION

Q (By Ms. Erenstein) Did anybody say anything to you?

A Nobody spoke to me, no ma'am.

Q You've been working throughout the strike, haven't you?

A Yes ma'am.

Q What's your shift, or what time did you come and what time did you leave?

A Seven to three, eight to four.

Q Do you drive daily?

A Daily, yes ma'am.

MS. ERENSTEIN: I have no more questions.

JUDGE DONNELLY: Anything else?

MR. BIBLOWITZ: No, nothing.

JUDGE DONNELLY: You're excused. Let's be off the record.

(Off the record.)

JUDGE DONNELLY: On the record.

MR. BIBLOWITZ: Miss Rowe, please.

JUDGE DONNELLY: Raise your right hand.

Whereupon,

LOUISE ROWE

26 was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Sit down and tell the Reporter your name and address.

THE WITNESS: Louise Rowe, R-O-W-E.

JUDGE DONNELLY: What was your last name, ma'am?

THE WITNESS: Rowe, R-O-W-E, 783 Reef Road in Fairfield.

DIRECT EXAMINATION

Q (By Mr. Biblowitz) Miss Rowe, by whom are you employed?

A Southport Manor.

Q How long have you worked there?

A Over four years.

Q In what capacity?

A Recreation Director.

Q Have you continued to work during the strike at Southport?

A Yes.

Q Did you go to work on February 19th, 1976?

A Yes I did.

JUDGE DONNELLY: Excuse me, what was the date again?

MR. BIBLOWITZ: February 19th.

Q (By Mr. Biblowitz) Did you go to work with anybody else on that day?

A With Mrs. Lorraine Sherman.

Q Did anything occur on that day either going to work, or returning from work?

A When we were leaving, approximately five-fifteen that evening both Lorraine and I, we went down the driveway and when we got to where the pickets usually are, there were three females and Kevin Doyle playing ball, and when we approached them they broke the line and went to the side of the road to the curbing; and as we slowed for traffic to go by on Mill Hill Terrace, Kevin Doyle ran over to the passenger side of the car and he yelled very loudly, "We'll get you, Sherman". We went out and we made a right, we just got maybe beyond the Manor property, Mrs. Sherman decided to go back to the policemen that were across the street and make a complaint against Kevin.

MR. BIBLOWITZ: I have nothing further for the witness, Your Honor.

CROSS EXAMINATION

Q (By Ms. Erenstein) Where was the car when Kevin came up to it?

A We were at the foot of the driveway just approaching the road.

Q And where was the police car?

A Across the road where they usually park.

Q Did anybody else say anything?

A Not that I heard. I have the habit of leaving the radio on.

Q You had the radio on in your car?

A Lowly because there were only four people there and they broke the line as we were approaching them, but he came close to the window, I would say his face was maybe three inches from the window and he screamed loudly.

Q Your window?

A In the passenger side.

Q You were driving?

A I was driving.

Q Where were the other three people?

A They were against the curb.

JUDGE DONNELLY: Were these other people, were they striking employees?

THE WITNESS: I believe they were, I couldn't identify them. I've made a habit of not even looking up when I go there.

Q (By Ms. Erenstein) Can you describe them?

A I probably could tell you a couple of names, but I wouldn't swear to it. One was a blonde girl, and one had dark hair and I think it was Dianne Gill and Joan Gaudreau, but I wouldn't swear to it because I don't look at them.

Q Did you say the window was open?

A No, the windows were closed.

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MS. ERENSTEIN: I have no further questions

MR. BIBLOWITZ: Nothing.

JUDGE DONNELLY: You're excused.

MR. BIBLOWITZ: Barbara Crimley, please?

JUDGE DONNELLY: Step up there, ma'am and raise your right hand.

Whereupon,

BARBARA CRIMLEY

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Sit down and tell the Reporter your name and your address.

THE WITNESS: Barbara Crimley, C-R-I-M-L-E-Y, 321 East Washington Avenue, Bridgeport.

JUDGE DONNELLY: Let's be off the record a minute, see what that is.

(Off the Record.)

(Back on the record.)

DIRECT EXAMINATION

Q (By Mr. Biblowitz) Miss Crimley, by whom are you employed?

A Southport Manor.

Q What job do you have there?

A Nurse's Aide.

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Q How long have you worked at Southport?

A Even since December of last year, '75.

JUDGE DONNELLY: What month?

THE WITNESS: December of '75.

JUDGE DONNELLY: Do you recall when ---- was it after the strike started?

THE WITNESS: Yes.

Q (By Mr. Biblowitz) Were you working in there on December 8th, 1975?

A Yes.

MS. ERENSTEIN: Wait a second.

Q (By Mr. Biblowitz) Did you go to work on December 8th, 1975?

A Yes.

Q What time was this?

A Between six-thirty and seven in the morning.

Q Did anything occur on your way to work that day?

A Yes. I was getting a ride with Cathy Wright and some other girls that works at the job with me. We was coming to Southport Manor, as we was entering the picket line, her car, Cathy Wright's car stalled.

Q Where were you sitting?

A I was sitting in the back of Cathy Wright, on the driver side.

JUDGE DONNELLY: Excuse me, just before you get into

31 that. What time ---- were you on your way to, were you going to work?

THE WITNESS: To work, yes, between six-thirty in the morning and seven.

JUDGE DONNELLY: Okay, go ahead.

THE WITNESS: And as we was coming to Southport Manor to the picket line, Cathy's car stalled right in the middle of the picket line, so she rolled down her window to call one of the policemen which was sitting in the car across the street. I guess she wanted help because the car stalled and she couldn't turn it on. Anyw ay when she rolled down the window, some of the strikers came toward her side and the side I was sitting on to --- I don't know what they was going to do but one of the strikers named Mary Hill, which I identified by her picture came up to the car, put her hand in the car while I was drinking a hot chocolate, hit me in the face and that's when the hot chocolate went over me and some went on her. By that time the cops came over there, helped Cathy with the car, and then we drove on to work and when I got to the Manor I made a complaint.

JUDGE DONNELLY: To who?

THE WITNESS: To the policeman who was there at the Manor at the time.

Q (By Mr. Biblowitz) Was any Union representative present at the time of that incident?

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A Yes, Kevin Doyle.

JUDGE DONNELLY: Where was Doyle?

THE WITNESS: He was standing next to Mary Hill.

JUDGE DONNELLY: How far away from her?

THE WITNESS: He was right there by her. He was just maybe two inches away from her.

MS. ERENSTEIN: Where was he --- two what away?

THE WITNESS: About two inches away from Mary Hill. He was right there.

MS. ERENSTEIN: What does he look like?

MR. BIBLOWITZ: Well, this isn't cross examination.

THE WITNESS: I identify him by a picture, that's why I knew him.

JUDGE DONNELLY: Wait a minute now. Try to hold this for cross examination. Go ahead.

Q (By Mr. Biblowitz) Now let me bring your attention to December 27th, 1975. Did you go to work on that day?

MS. ERENSTEIN: Wait a second, is that in the complaint?

MR. BIBLOWITZ: Check R-h.

MS. ERENSTEIN: I object. There's nothing in the complaint about this date.

MR. BIBLOWITZ: Your Honor, in or about the month of December on paragraph H, sub-paragraph H on 8, on various dates through the month of December, I would assume December

27th, these various dates through the month of December.

JUDGE DONNELLY: Yes, I'll overrule the objection, go ahead.

Q (By Mr. Biblowitz) Did you go to work on that date?

JUDGE DONNELLY: Excuse me. Let me have the date again.

MR. BIBLOWITZ: December 27th.

THE WITNESS: Yes.

Q (By Mr. Biblowitz) With whom, if anybody did you go to work?

A On that day I can't remember who I went to work with, but I was there.

Q Did anything occur on that date on your way to work, or from work?

A Well, from work, that was at lunchtime. I was going out to lunch with Jean Whitley and Emma Holman (phonetic).

Q What time was this, about?

A It had to be around,'bout 11:45, between that time because we had to punch back in, either twelve or twelve-thirty.

Q What occurred?

A As we was leaving, going out to lunch, Jean Carr who came to the picket line.

Q Who?

A Jean Whitley Carr, she was driving and she had stopped for them to make their circle and as the line had opened, there was one girl standing in front of the car, for her car

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had stopped completely and Kevin Doyle, he came on the side, on the driver's side in the back where Emma was sitting, Emma Holman was sitting and hit the window.

Q What did he hit it with?

A His fist, and at that time the car had rolled and hit the girl that was standing in front of the car, which you know, if she wasn't standing there, she wouldn't have gotten hit.

MS. ERENSTEIN: Would you repeat that? I didn't hear it.

THE WITNESS: You didn't hear what?

MS. ERENSTEIN: The last thing you said about, if she was - - - -

THE WITNESS: She was standing in front of the car, if she wasn't standing there she wouldn't have gotten hit.

Q (By Mr. Biblowitz) Now what occurred when Mr. Doyle hit the window, if anything?

A When he hit the window, he had to frighten Jean because her foot left the pedal and the car just rolled a little, and that's when the car tapped the girl.

Q Did anything happen to the window?

A The window had fell and it was ---- when I had glanced at it, it was hanging just a little out the frame.

JUDGE DONNELLY: Wait a minute. When he hit the window, did the window break, that's the question?

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THE WITNESS: It didn't break, it fell, it fell out the frame, it didn't break.

JUDGE DONNELLY: It fell out of its frame?

THE WITNESS: Yeah, it fell down.

JUDGE DONNELLY: Did it fall down in the groove or did it just fall over?

THE WITNESS: It just fell crooked, you know, like it was rolled up, you know, like something hit it hard, it fell. It was hit really off the track, probably.

JUDGE DONNELLY: Well, did it drop down, like you were turning the window down, did it drop down that way as if you were rolling it down?

THE WITNESS: It fell half --- I couldn't see how far it fell, but it didn't fall all the way down, let's put it that way.

JUDGE DONNELLY; Excuse me. Ma'am, would you please be quiet, all right; now, it's happened several times, you get into a running conversation here but it makes it very difficult when I'm asking questions of the witness, both for me and the witness. So if you'd like time, if your Counselor would like time to discuss matters with you, I'll give her time to do that, at her request, but in the meantime try to restrain yourself.

Now, I'm trying to find out what happened to the window. Did the window just drop down in its groove, or did the

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window go from, let's say from the outside in, did it fall from the outside in?

THE WITNESS: It fell like ---- when it came down it fell to the side towards, just a little, it just fell off the track, like it wasn't coming straight down, it fell crooked.

JUDGE DONNELLY: But it didn't fall all the way over?

THE WITNESS: No.

JUDGE DONNELLY: It just came over a little ways?

THE WITNESS: Yes.

JUDGE DONNELLY: Did it come down at all, any?

THE WITNESS: It came down.

JUDGE DONNELLY: How much?

THE WITNESS: About a quarter I would say.

JUDGE DONNELLY: A quarter of an inch??

THE WITNESS: Well no, I couldn't tell you the length but it fell enough, which is when he hit it with his fists; maybe about that much.

JUDGE DONNELLY: Well, try to give us an estimate, cause that [illegible]esn't help much for the record.

THE WITNESS: I'll just say it fell halfway cause I couldn't really estimate it.

MR. BIBLOWITZ: I have nothing further.

MS. ERENSTEIN: May I see the statements?

MR. BIBLOWITZ: Your Honor, there are two statements here, one taken by a Board Agent, and one signed, taken

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without any sworn to, but I have no objection to the Counsel having them.

JUDGE DONNELLY: Okay, then give them to her.

MR. BIBLOWITZ: We took car of the affidavit, so I'll give her both.

JUDGE DONNELLY: Let's be off the record. So I'm going to be back in five minutes to resume your testimony, in the meantime don't discuss your testimony with anyone.

THE WITNESS: Okay.

(Five minute recess.)

JUDGE DONNELLY: Let's be on the record.

CROSS EXAMINATION

Q (By Ms. Erenstein) Who was in Cathy Wright's car with you?

A It was Cathy Wright; Dianne, I can't think of Dianne's last name right now; Jean Whitley and myself.

Q And who was sitting where in that car?

A Cathy was the driver, I was sitting behind Cathy; Dianne was in the middle, I mean in the front with Cathy; and Jean was sitting in the back with me.

Q About how many people would you say were in the picket line when the car stalled?

A I do not know because I didn't count them.

Q Well, approximately?

A I can't give you approximately, cause I didn't count

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them. All I know is, it was more than nine.

Q It was more than nine. Did you see any policemen there?

A When I approached the picket line in Cathy Wright's car, the policemen were on the other side of the road where they usually be parked at.

Q There were some standing there, too, weren't there?

A No.

JUDGE DONNELLY: So the only policemen, you say were on the other side of the road.

THE WITNESS: They was in their car, sitting in their car on the other side of the road, sitting in their car.

Q (By Ms. Erenstein) How many cars were there?

A Well, I only seen one.

Q How many policemen were in that car?

A Two, where I see them.

Q So as far as you know, there were only two policemen there?

A As far as I know.

Q Now, which windows of the car were open?

A Cathy Wright's window, the only one she opened. No other window wasn't opened.

Q Only the driver's window?

A Only the driver's window.

Q So Mary Hill was standing next to the driver's window?

A Yes, she approached the window.

Q Did anybody call anybody a "scab" at that time?

A They were calling all kinds of names.

JUDGE DONNELLY: Excuse me. I want to find out something. The only window open was the window on the side of the driver?

THE WITNESS: I was sitting in the back.

JUDGE DONNELLY: You testified you were hit in the face?

THE WITNESS: Right, she stuck her hand inside the window.

JUDGE DONNELLY: Well, where were you? How far away were you from the open window?

THE WITNESS: I was sitting right directly --- I wasn't sitting all the way back. I was drinking hot chocolate and I was sitting like this on the side with the hot chocolate, and Cathy was trying to start the car. That's when the window went down, and that's when all the picketers came to the driving side where the window was down, and where she stuck her hand in the window.

JUDGE DONNELLY: Well how far did she stick her hand in the window?

THE WITNESS: Well, her whole arm was in the window. I remember cause she had red gloves on that day and a black coat.

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JUDGE DONNELLY: Where were you physically located in the car, at the time you were hit?

THE WITNESS: Directly in back of Cathy on the driver's side, on the left-hand side.

JUDGE DONNELLY: How far were you away from the open window?

THE WITNESS: Maybe fourteen inches, not that far; about fourteen inches away from the open window.'

JUDGE DONNELLY: Then what did Miss Hill do, the woman who reached in the window? Is that her name?

THE WITNESS: Mary Hill.

JUDGE DONNELLY: Mary Hill, yes what did she do?

THE WITNESS: She came to the window, put her hand in the window and she reached back and smacked me, and that's when the hot chocolate went on me and on her arm.

JUDGE DONNELLY: On Mary Hill's arm?

THE WITNESS: And all over her glove, and everything.

Q (By Ms. Erenstein) What kind of a car was this?

A What kind of car is what?

Q The one you were in?

A It's a green duster, I think.

Q Fairly recent model?

A I don't know.

Q What kind of seats does it have in the front?

A What difference does the seat make, I don't know really.

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JUDGE DONNELLY: Just answer the question.

THE WITNESS: I don't know.

Q (By Ms. Erenstein) Does it have bucket seats?

A Oh no, I know what you mean now, no, just straight not bucket.

Q Headrest for the neck?

A I don't know, I really didn't notice,

Q So it's not a very large car, is it?

A No.

Q And Cathy Wright, was it in the front seat?

A The driver.

Q Yes, did Miss Hill do anything to her?

A No.

Q How were you able to identify her, did you know her before that?

A I know her from a picture that I identified.

Q Where's the picture?

A One of the Lawyers that I spoke to had the picture.

Q Can we see it?

A He had a lot of pictures, that's how I identified the rest; and plus that, I know her from one of the girls that I know, is her mother.

Q You know her mother?

A One of the girl's that I work with, that's Mary Hill's daughter.

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JUDGE DONNELLY: So you work with - - -

THE WITNESS: One of her daughters.

JUDGE DONNELLY: You work with one of Mary Hill's daughters?

THE WITNESS: Right, that's right.

Q (By Ms. Erenstein) Where does she work?

A She was employed at Southport Manor.

Q When?

A At the time this was happening.

Q She was with you?

A No, I don't think so.

Q Did she point out her mother for you?

A Well, I knew Donna before I had applied at Southport Manor.

JUDGE DONNELLY: Donna is Donna Hill, that's the daughter?

THE WITNESS: Yes, that's the daughter, that's her first name, I don't know her last name.

Q (By Ms. Erenstein) How do you know that Mary Hill is her mother?

A Because I know.

Q How?

A I seen her with her and I was introduced one time to her, just before in the summertime.

Q In the summertime Donna introduced you to this very

43 same woman and said, "This is my mother, Mary Hill"?

A And plus she pointed out to her one day as I was given a ride to Southport Manor. She said, "That's my mother right there".

Q Well, where were you in the summer when she introduced you to her mother?

A I was living in Twin Towers at the time, Donna was living in PT Projects.

Q And she introduced you?

A Yes.

Q Where were you?

A It was on the street.

Q Okay, and so when you saw her at the picketline, you remembered that, Mary recognized you?

A I really didn't recognize her until time went by, then I knew who she was, but I really knew who she was when I identified her picture.

Q Which Lawyer showed you this picture?

A I don't know his name. There was someone that talked to me, that took my statement.

MS. ERENSTEIN: I ask the General Counsel to make the picture available to me.

JUDGE DONNELLY: You can ask him, go ahead and ask him.

MR. BIBLOWITZ: I have no - - - - -

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MS. ERENSTEIN: Can we confer while they're watching?

JUDGE DONNELLY: Let's go off the record. Off the record.

(Discussion off the record.)

JUDGE DONNELLY: On the record.

MR. BIBLOWITZ: The only pictures I have were attached to another affidavit in regard to damage to somebody's house, andpickets; but I have no knowledge of any of these pictures being shown, haven been shown to Miss Crimley. I'm not sure who showed the pictures to Miss Crimley. I have no objection to giving these pictures to Counsel for Respondent, but they are not part - - -

MS. ERENSTEIN: I have copies but can I see those.

MR. BIBLOWITZ: But they're not part of Miss Crimley's statement, and I don't think these are the ones she's referring to.

THE WITNESS: No.

JUDGE DONNELLY: Well, wait a minute.

Q (By Ms. Erenstein) What type of pictures were they? That you were shown.

A I was shown pictures of picket lines where they were standing, and close-up ones, some of them.

JUDGE DONNELLY: Do you want to do something with the pictures? Show them to her if you want to, and say, "Are these the pictures?" Then we know if those were or weren't

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the pictures, and we can get on.

MS. ERENSTEIN: I'm sorry, I'll try to do it faster.

JUDGE DONNELLY: Take all the time that you need, but it seems to me that you're holding pictures in your hand and you can show them to her and then she'll know. Yes they were, no they weren't the pictures that she was shown.

Q (By Ms. Erenstein) When were you shown the pictures?

A I don't know the exact date, it was the day that one Lawyer from somewhere showed me the picture and I identified the people, when I made my statement.

Q You didn't know when this incident occurred, who the person was?

A No.'

Q When did Mary Hill's daughter point her out to you?

A Oh, it could have been in the month of December, January.

Q Was it before, or after this incident?

A It was after. It was before, too, but I really didn't pay no mind to it. It can be before and after because I really didn't think about it.

Q What does she look like?

A Well, she's short, I never seen her with her hat off, cause she always weared that hat, and she had a stout face and she's stout, but I know when I see her.

JUDGE DONNELLY: Is she black or white?

46 THE WITNESS: She's white.

Q (By Ms. Erenstein) Do you rec[illegible] hearing ---- when the car stopped and the window was rolled down, didn't you say to some people who were standing there, "You fucking with the wrong ones now"?

A After she hit me, I sure did.

Q No, I mean before?

A No.

Q Okay, and did you also say, "Instead of the cops being here for our protectio[illegible] they'd better put them here to protect your asses"?

A No.

Q Who said that?

A I don't know.

Q Did you hear Jean say that?

A No.

Q Did you say to a person standing there, "We know who you are and we're going to get your asses"?

A No.

Q What else did you say?

A I didn't say anything, too much.

Q Well you said, you said, "You're fucking with the wrong ones now", what else did you say?

A I didn't say I said that.

JUDGE DONNELLY: Well, did you say anything? After

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you were hit, did you say anything?

THE WITNESS: The only thing I told her that payback, that's what I told her. That was all I said,"payback."

JUDGE DONNELLY: Now tell me, you just didn't say one word, "payback". I want to know what the sentence was, the whole thing that you said to her.

THE WITNESS: Oh no, I didn't say those things, nothing like that cause hot chocolate was on me burning me.

JUDGE DONNELLY: What did you say?

THE WITNESS: Really I can't recall what I said, but I did tell her "payback", to Mary Hill cause she was standing there after the cop came and - - -

JUDGE DONNELLY: "Pay back"?

THE WITNESS: Yeah.

JUDGE DONNELLY: Did you say one single word, "payback", that's all you said?

THE WITNESS: That's all.

JUDGE DONNELLY: One word is all you said?

THE WITNESS: Yeah.

JUDGE DONNELLY: Now listen to me now, listen to me. You said one word, and that's the only word you said after you were hit by the hot chocolate?

THE WITNESS: Yeah, because - - -

JUDGE DONNELLY: What was that word?

THE WITNESS: I said "payback" and I pointed to her, and that was it cause Jean was helping me get the hot chocolate off me, cause it was burning.

Q (By Ms. Erenstein) What does "payback" mean?

A It's either me or her, that's what it means.

Q Now, what were you wearing?

A My uniform,

Q Did you have on a coat?

A Yeah.

Q Gloves?

A No.

Q A hat?

A No.

JUDGE DONNELLY: Before you were hit by the hot chocolate, did you say anything?

THE WITNESS: Before, no.

JUDGE DONNELLY: Did you say anything to any of the pickets before you were hit with the hot chocolate?

THE WITNESS: No.

Q (By Ms. Erenstein) Did you hear anybody else say anything in the car?

A No.

Q Is it possible that they said something that you didn't hear?

A They could have said something, but I wasn't worried about that because there was hot chocolate on me, cause it

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happened so fast, you know.

Q Let's try again. Before the hot chocolate, is it possible that anybody in your car said anything?

A It's possible.

JUDGE DONNELLY: To the pickets you mean? To the pickets.

THE WITNESS: Oh no, not that I recall, no.

Q (By Ms. Erenstein) Mary Hill; somebody you say is Mary Hill reached in and where did she put her hand first?

A In my face.

Q Well, how did she do that?

A Well, I don't know exactly. I know I seen her whole arm back there when I got hit in the face.

Q Was it a fist or an open hand?

A She had an open hand.

Q Okay, and was her open hand, was it the back of her hand or the palm of her hand?

A Her palm.

Q And where did she strike you?

A In the face.

Q Yes, which part of your face?

A On the left-hand side.

Q Could you just point to it?

A On this side.

Q She hit you in the cheek?

50 A Right.

Q Could you put your hand to your face and show me how she did it?

JUDGE DONNELLY: Let me tell you, Counselor, you are going to have to have some kind of descriptive line.

MS. ERENSTEIN: I'm going to describe it, but I have to see what it was first.

JUDGE DONNELLY: All right.

THE WITNESS: I was sitting in an angle, right, with hot chocolate in my hand.

Q (By Ms. Erenstein) Which hand was the hot chocolate in?

A In my right hand, and I was sitting in an angle - - -

Q Are you right-handed?

A Yes, I'm right-handed, and I was holding the chocolate over so it won't waste on me, and that was where the car, between me, the seat, and the back of the driver's seat, like this.

Q Well, where was the window in relation to that?

A And I was turned - - - pardon?

Q You say you were sitting on an angle and you had the hot chocolate?

A That's right.

Q Where was your hand with the hot chocolate, in relation to the window?

A It was nowhere near the window, because I had the hot chocolate in my right hand, and my knees was turned to the driver, the window on the driver's side.

Q So you were facing - - -

A I wasn't really expecting her to put her arm in there to smack me?

Q You were facing the window, is that right?

A Right.

Q Okay. And you're facing the window, and about what level was your hand with the hot chocolate? I mean, were you holding it up in the air, or was it down on your lap, or where was it?

A I was holding it in mid-air, not high up but halfway.

Q Okay. Then at that point, would you please show me with your hand what she did?

A She put her hand in there, I don't know whether her left hand, or her right hand.

Q All right, just show me with your own hand where it hit your face?

A Right here, her whole hand came this way across my face.

Q She brushed it like that with two fingers together?

A Her palm, her whole hand.

Q Show me with your hand on your face?

A Her whole hand came like this, on my face, on the left-

-20-

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hand side.

JUDGE DONNELLY: Was it like a slap?

THE WITNESS: It was a slap.

JUDGE DONNELLY: It was a slap?

THE WITNESS: Yes.

Q (By Ms. Erenstein) It came from the back of your head to the front?

A I didn't say the back of my head, I say on my face, my cheek.

Q From which direction ---- well, let me come and stand up there, maybe you can show me better. If I were the person who was hitting you, how did this happen. Here's my hand, just show me.

A So she had to come this way for me, I mean for her - -

Q This is the car window, all right, so she would - - -

A No, the car window like right here and I was sitting like this with hot chocolate over me.

Q This is the driver here?

JUDGE DONNELLY: No, Counselor. She's testified that she's sitting behind the driver.

THE WITNESS: I'm sitting behind the driver, close to the window, all right this is the window.

JUDGE DONNELLY: So the window will be on her left and somewhat in front of her.

THE WITNESS: Right, and I have the hot chocolate over

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me like this and she put her hand in, I'm like this.

Q (By Ms. Erenstein) All right, here's my hand, where did it come from, it came from this direction, right?

A That's right.

Q And where did she put it?

A She put it right here.

Q Like that?

A Right.

Q So she took her hand and struck the side of your face?

A Yeah, cause when I looked around like this, her whole arm was in the car, but she pulled it out.

Q And she came from this, from your left side, you had the hot chocolate on your right side?

A Right.

Q All right, how did the hot chocolate get on her arm?

A How do you expect, it fell on there. I had it in mid-air.

Q She was on the other side, right?

A Yeah.

Q And she was coming from your left, and you had the hot chocolate over on the right - - -

A It got on there because it got all over me.

JUDGE DONNELLY: If she hit you - - -

THE WITNESS: I had a full cup.

JUDGE DONNELLY: Now wait a minute. If she hit you

54 on the right-hand side of the face, on the left-hand side of the face, and you had the chocolate in your right hand, how was it possible for the chocolate to get on her arm?

THE WITNESS: It's not very hard because I jumped, because it went all over me and her, and mostly her hand, cause at the time, I guess Cathy probably looked around.

JUDGE DONNELLY: Where did the hot chocolate land again, tell me, where did the hot chocolate go to?

THE WITNESS: Mostly up here, just up here on my leg, on my lap, and my uniform, and on her arm, but she didn't get that much on it, and her glove.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) The back window wasn't it open, too?

A The back window was not open.

Q Did I ask you if there were police present at that time?

A Yes you did.

Q You said there two in a car across the street?

A What I have seen of, I only seen two.

Q Calling your attention to ---- well, one other thing on that; Kevin Doyle, you say was about two inches away?

A Just about.

Q Where was he, if this person who you're calling Mary Hill was standing by the driver's window, where was Kevin in

55 relation to that?

A Well, when all this incident happened, he was standing there, I don't know how long. She was standing over here, he was standing, maybe on her left side.

Q So he was standing towards the front of the car, two inches away?

A Well, yeah, after all this happened. He could have just walked there, or what, but I know he was standing there cause I looked right in his face.

Q At the time it happened?

A Yeah, cause I was brushing the hot chocolate off me.

Q Who else was there?

A That's the only two I seen.

Q You saw these two women right there, didn't you?

A If I did, I do not remember.

Q Have you ever seen either of the women sitting at this table before?

MR. BIBLOWITZ: Can you identify them?

THE WITNESS: I seen them at the picket line.

JUDGE DONNELLY: Well, you know I've done this so many times.

MS. ERENSTEIN: I was planning to do it, but if she says she's seen, if she says she hasn't seen them, I wanted to know what she was going to say first.

Q (By Ms. Erenstein) Do you know who they are?

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A I've seen them at the picket line, I don't know nobody's name.

Q Mrs. Marguerite Bellon and Lucinda Giles, you don't recall seeing them there on that day?

A No I don't.

Q Now, on December 27th, You say that this woman hadn't been standing in the way of the car, she wouldn't have gotten hit?

A Right.

Q Do you recall what happened after she got hit? Did she get out of the way then?

A Yeah.

Q And what happened to her? Was she knocked over?

A No, she wasn't knocked over. A guy, a guy I had identified, like I say on a picture was Kevin Doyle, and came and helped her, and she didn't fall to the ground or nothing like that.

Q The police were there, weren't they?

A They were there, they were sitting in the car usually.

Q Did they have some conversation with the people in your car?

A They told Jean to pull over to the side where the police car was parked, so that's what she did.

Q And what happened then? Did they ask you to get out of the car?

A No.

Q Did they look inside the car?

A Yup.

Q Did they see some clubs in there?

A No.

Q Did they see some things in there that they identified as clubs?

A Yes, they seen some table legs that Jean had in there, and she was told to put one that was already in the car, but she had the other, she had a table set that she was having repaired or whatever. She was told to take that out and put it back in the trunk where the legs was, and that was it.

Q What was that made of, what material?

A I don't know, could have been tin, could have been steel.

Q About how long was it?

A I really don't know.

MR. BIBLOWITZ: Your Honor; can I question the relevance of questions about what they have in the car.

MS. ERENSTEIN: Because the police said they were clubs and made them put them in the trunk of the car. If you want to question the relevance of that.

MR. BIBLOWITZ: Your Honor, what is the relevance of what they have in the car if the allegation is, that the Union Representative slammed his hand on the car.

58 MS. ERENSTEIN: The allegation was that, I'm alleging that this driver hit a picket.

THE WITNESS: No.

MS. ERENSTEIN: You said she did..

JUDGE DONNELLY: Wait a minute. This is in evidence, go ahead.

MR. BIBLOWITZ: What is the relevance to - - -

MS. ERENSTEIN: I'd say it's twofold. One is, I think I'm entitled to show the provocative - - - - of people such as this witness; secondly, I think it goes to her bias.

JUDGE DONNELLY: I think it's admissible, I'll allow it. I'm more interested in what was in the car, items of that nature; and I am, in what the Police may have alleged or charged, or said, what the policemen said they saw in the car.

MS. ERENSTEIN: Well, I'm asking her, and she's at this point- - - -

JUDGE DONNELLY: If you're satisfied, it's your examination. go ahead.

Q (By Ms. Erenstein) All right.

A When he came over to the car, he asked me what was this, I told him I didn't know, cause it wasn't my car, so he asked Jean, the driver, she said, "That's a table leg that I'm having fixed". He said, "Well, take it out and put it in the trunk". He say, "You have any more in the car?" She say, "Yes, they're in the trunk." She say, "I just had it there." He said, "Well, just take it and put it in the trunk with the rest of them."

Q And they were metal, made of some kind of metal?

A Yeah.

Q And about how long were they?

A I couldn't say, I really didn't look at it that hard.

Q They were long enough to hold up a table, right?

A I guess so, they was her table leg.

Q So you don't really know if they were table legs?

A Yeah, they had to be table legs because when I went back to the trunk myself, I seen the rest of them because the policeman looked back there himself, to see does she have any table legs more back there.

Q Could you describe them in a little more detail then? How did you know they were table legs?

A Because he said they was, because my table leg is something similar like that.

Q Well, tell me what it was like?

A What you mean, what it was like?

Q I don't know what your table legs are like, I don't know what hers were like.

JUDGE DONNELLY: Ask a specific question, "How wide it was? How long it was? What color it was?"

Q (By Ms. Erenstein) Were they in the shape of a cylinder? Were they round?

A No, they was long, and they had rubber on the tip of it, that's why I know, and plus half of her table was back there; that's why I know.

Q What kind of table was it?

A Kitchen table.

Q What material was it made of?

A I couldn't say.

Q What kind of car does she have?

A Jean? She don't have any car, that was her friend's car she was driving, and it was Pontiac, I couldn't tell you the make of it. I think it was a Pontiac, I don't know.

Q How many times did she drive that to work?

A I don't know.

Q Had she ever driven it before, to your knowledge?

A Yes, a few times before that.

Q And after?

A Afterward.

Q After that date?

A Yup.

Q What happened after they told her to put this metal thing in the trunk?

A Nothin g happened. She just did what she was told and that was it.

Q And then where did you go?

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A We sat back in the car.

Q And then what'd you do?

A Then after that we followed the policemen down to the Station, and that's where we all signed a statement.

JUDGE DONNELLY: Why did you go down to the Station?

THE WITNESS: Because they took ---- whoever that girl was, they took her to the hospital to see was she hurt or whatever, and they told all of us to follow him down to the Police Station, Fairfield Police Station.

JUDGE DONNELLY: So the Policemen asked you to follow him down there?

THE WITNESS: Right, and Jean followed him.

JUDGE DONNELLY: Okay, so you went down there, and what? Then they took some statements?

THE WITNESS: Right.

JUDGE DONNELLY: They take your statement?

THE WITNESS: Yes.

JUDGE DONNELLY: And the other people in the car?

THE WITNESS: Yes.

JUDGE DONNELLY: I want to get one thing. This woman that was hit with the car, did that happen before or after you were hit by Miss Hill?

THE WITNESS: That was after.

JUDGE DONNELLY: How long after?

THE WITNESS: Maybe a month and a half after.

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JUDGE DONNELLY: A month and a half?

THE WITNESS: No, no, wait a minute.

JUDGE DONNELLY: Oh, I'm sorrry, I'm confusing the incidents, I'm mixed up.

THE WITNESS: One incident happened December the 8th, and another in the same month on the 27th.

JUDGE DONNELLY: Yes, on the 27th, all right. It was on the 27th, that's when I think you testified somebody hit the car, the pickets hit the side?

THE WITNESS: That's the same thing.

JUDGE DONNELLY: Yes, but what - - -

Q (By Ms. Erenstein) She said Kevin Doyle pounded on the window.

A Yeah.

JUDGE DONNELLY: Kevin Doyle hit the window?

THE WITNESS: Yeah.

JUDGE DONNELLY: Okay. The question that I wanted to ask --- I was confused about the incidents. The question that I want to ask you, did the car hit the woman before or after the car was hit by Doyle?

THE WITNESS: After.

JUDGE DONNELLY: After, how long after?

THE WITNESS: Maybe seconds after, because when he hit the window Jean's foot left the brake, and that's when the car rolled and hit the girl.

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JUDGE DONNELLY: All right.

Q (By Ms. Erenstein) How long had the car been parked before she took her foot off the brake, or stuck?

A I couldn't say how long because they made their circle, and then as the line was opened that was the only girl that's standing there, and but, at that time I don't think Jean saw the girl because Kevin had hit the window, and that's when the car rolled and hit the girl.

Q What do you mean you don't think she saw her?

A Because she looked back, because when the car rolling, I the one that told her to watch out for the girl.

Q Isn't that why Kevin was banging on the window, to stop her from hitting her?

A No.'

Q You didn't see her - - -

A The car was stopped, it wasn't moving at all until he hit the window.

Q What space of time would you say the car was stopped for?

A I couldn't say.

Q Well, just approximately?

A I couldn't say.

Q Your best guess?

A Well, maybe a minute, or two minutes, something like that; no, it's just about two minutes because they had to walk three times in a circle.

Q They walked three times on that day, at that time?

A Right.

Q As you were driving from the Nursing Home towards the street, on the driveway on that day at that time, did you notice any pickets jump to either side of the driveway as you approached?

A Do what?

Q Jump to either side of your car as you approached?

A What you mean, jump?

Q Move quickly away from the car?

A On this day I was going out for lunch?

Q Yes.

A No, I didn't see nobody jump out the way.

Q And you saw them circle in front of the car three times?

A They circled and there was only one girl standing there.

Q Three times they circled?

A Yes, only one girl standing there, that wouldn't move. She did not jump out of the way.

Q How many pickets were there, by the way?

A I really don't know.

Q Approximately?

A Maybe eight or seven, maybe a little more, I don't know.

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Q And they circled three times around the driveway?

A Hmn.

MS. ERENSTEIN: No more questions.

MR. BIBLOWITZ: Just one question, Your Honor.

REDIRECT EXAMINATION

Q (By Mr. Biblowitz) Just bring your attention again briefly to December 8th incident with the hot chocolate. Again, I would like to see if I can clear something up. You were holding the hot chocolate with your right hand, and the arm came in from the window and hit the left side of your cheek?

A Yes.

Q Now, did the arm stop at that point, or did it continue across your face?

A It continued.

Q Across your face?

A Because I jumped like this, you know, and that's when everything went all over me and her hand.

MR. BIBLOWITZ: That's all.

RECROSS EXAMINATION

Q (By Ms. Erenstein) I forgot, who was sitting next to you?

A Jean Whitley.

Q Did the hot chocolate hit her, too?

A No.

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Q I think I asked you if it hit Cathy, did it hit Cathy?

A No, you didn't ask me, but I don't think it hit Cathy, if it did I wouldn't have known, she didn't tell me it did.

MS. ERENSTEIN: I have no more questions.

MR. BIBLOWITZ: Nothing further, Your Honor.

JUDGE DONNELLY: You're excused. Thanks very much.

MR. BIBLOWITZ: I have one further subpoenaed witness, Dean Barget. He's been subpoenaed, isn't here so I have no further witnesses; but may I reserve the right if he does appear, to call him? He has been subpoenaed, Your Honor.

JUDGE DONNELLY: Yes, I think it's better than getting into a delay. Do you have any objection to that?

MR. BIBLOWITZ: With all rights to use later.

JUDGE DONNELLY: Full right of cross examination.'

MS. ERENSTEIN: Not really, I don't have any objections.

MR. BIBLOWITZ: I have no further witnesses then.

JUDGE DONNELLY: You're resting subject to the possibility of calling this one individual then?

MR. BIBLOWITZ: Yes, Your Honor.

JUDGE DONNELLY: It might be a good time to break for lunch. Is there any prospect of finishing today?

MS. ERENSTEIN: Well, in all candor I have two distinct problems, one is - - -

JUDGE DONNELLY: Let's be off the record. We'll break

67 for lunch now and resume at one p.m.

(Whereupon, at 11:50 a.m., the hearing was recessed, to reconvene at 1:00 p.m. the same day.)

JUDGE DONNELLY: On the record.

MS. ERENSTEIN: Your Honor, a number of individuals who have been named in the complaint, or whose names have come up in the course of the hearing in testimony.

JUDGE DONNELLY: Yes.

MS. ERENSTEIN: Currently have criminal charges pending against them upon complaints of this employer, or its agents, employees; and prior to this hearing I met with the Attorney for these individuals and he had advised them and advised me, he did not feel that they should be called as witnesses in this proceeding because of those matters, and he advised me that the dates in May and up to the beginning of June set for trials, hearings, whatever; and at this time I would request a continuance of the hearing until they are resolved.

I'm not a criminal lawyer and so it's difficult for me to ---- I can't make an assessment myself at this point, even having heard the cases, to how this would affect those charges. I feel it would prejudice, it could jeopardize their chances in a criminal case.

I know in situations where the Board is contemplating calling a witness who might --- well, I say I know, I know from reading the rules that where it's contemplated that a person might invoke a fifth amendment privilege, or would. There's provisions to make special application under certain circumstances, to be able to call such a person.

Now, I'm in a position of a Respondent, I do need these witnesses, I feel, to defend my case; on the other hand I feel it would jeopardize them unduly at this time to go ahead.

MR. BIBLOWITZ: Your Honor, from my position I strongly object to the continuance and I might state that the first one of these cases has been scheduled since January and they have been put off. I can't say firsthand that they're put off at the request of the Union, but they have not been put off at the request of the Employer, or to the Employer's knowledge its employees.

I can also state that a charge, at least one of the charges against the non-striking employees has already come to trial and been, I believe, dismissed; and so I state that only to show that the cases where parties have not objected -- where the party complained against has not objected to going to trial have come up and been tried. I must assume that the reason the cases against the Union people have not come up is because they've asked for continuances on their trials; and I would strongly object, therefore, to a continuance of this case.

MS. ERENSTEIN: You don't know that for a fact?

MR. BIBLOWITZ: I state that, I don't know for a fact, but I have to assume it. The first case was scheduled to come up in January and they've been put off, but I can state not at the request of the Employer.

JUDGE DONNELLY: Obviously with good grounds, I suppose that the State Courts will, can, and do grant continuances, and for all I know the Union may have good grounds.

MS. ERENSTEIN: I'm not in a position to say anything since I'm not personally handling these cases.

JUDGE DONNELLY: I'm not asking you to, really, just making an observation that with good grounds, Courts do grant continuances and assuming there are more, there may be additional delays, at least as to some of them, some of these people, I don't know. Of course, you always have the prospect of appeals from those decisions and what have you.

MS. ERENSTEIN: Well, but the appeals, once they testify, if they testify in a criminal trial, I wouldn't anticipate during the pendancy of appeals having them not testify in other proceedings.

JUDGE DONNELLY: On what grounds do you think that --- what's the real basis for your argument that I should grant a continuance?

MS. ERENSTEIN: I am saying that I believe that it could prejudice them, these would be the criminal charges.

JUDGE DONNELLY: This is a civil matter now.

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MS. ERENSTEIN: I understand that, but they're going to testify under oath. Anything anybody says, I'm sure as you know, when you have clients you don't advise them to --- maybe you do, but normally people are not advised to make statements where they have criminal charges pending against them, voluntarily to the police, per se. This is a statement they would make under oath. I'm not suggesting that they're going to admit any guilt, of course they're going to deny it; however, as I said I'm not a criminal attorney, I'm not handling those matters and I've conferred with the Attorney.

I know with my own clients I don't ask them to go off and make statements elsewhere. This is a statement, there will be transcripts, it will be made under oath and can be used against them in that proceeding.

MR. BIBLOWITZ: Your Honor, may I point out one other thing in this matter. In asking you for a continuance and Ms. Erenstein says the cases are for June, now I don't know the exact number of cases but from the testimony that has come out, it seems that there is a very large number of cases and I mean those cases aren't going to go-- it's not like it is one case and we have a date set. I think it's a safe assumption that those cases, all the cases involving these individuals will not be tried till near the end of the year. I mean it's not like it's one case.

MS. ERENSTEIN: You know, it's an assumption that, I

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mean I might be able to get some more detailed information about what's happening with the cases, by calling him. I mean beyond what I've said, I saw him a few days ago. I'm not sure there are that many cases involving the people we're talking about. I didn't say I plan to call a hundred witnesses.

MR. BIBLOWITZ: Pursuant to subpoena, I was looking through these police files pursuant to the subpoena for the police, and can't be exact but there were approximately, I would say about a hundred different files, not each of them involving complaints; some arrests, mainly involving arrests, and a hundred files. I can't make any assumption on how many trials there are coming up.

MS. ERENSTEIN: There weren't a hundred arrests. There weren't even fifty arrests.

MR. BIBLOWITZ: I didn't say that. I said there were approximately a hundred separate file numbers involving incidents.

MS. ERENSTEIN: Let me say this. I'm only talking about the incidents in this case. I'm not talking about a hundred incidents, I know there weren't a hundred, I know there weren't fifty, I'm not even sure there were twenty-five arrests. With respect to these people that I want to call as witnesses, you get a smaller and smaller universe as you get down to those people, and down to the incidents involved

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in this case. There may be a way that, that could be even for scheduling purposes those things can be disposed of first with the criminal matters, I'm saying.

MR. BIBLOWITZ: Again, Your Honor, I would strongly object because I would assume, and again it's another assumption, that we would have to continue for approximately six months, prior to all these cases being finished.

JUDGE DONNELLY: Well, there's no way really to tell.

MR. BIBLOWITZ: And again our purpose in not accepting, in not wanting an informal settlement so that we could get something that we could enforce, and by putting this off another period, then it's just the longer we have to wait and the longer we have to wait for any type of decision on this case.

MS. ERENSTEIN: Well, I know you want to enforce something, but in the meantime -- well, I don't think you have the problem with the picket line, there are the criminal charges pending, presumably there is some things in the State Courts.

MR. BIBLOWITZ: Well, there's still picketing going on.

MS. ERENSTEIN: Well, there is still picketing, but first of all there are no allegations of any physical violence to begin with, against people.

MR. BIBLOWITZ: Wait, let's not argue -- but there are allegations of physical violence.

MS. ERENSTEIN: You know I've been out there, and I don't think you could tell me there's some big heavy scene out there with the picketing now. I went out there yesterday, there were two people lying on a blanket sunning themselves.

MR. BIBLOWITZ: I won't get into any argument since it's outside the realm.

JUDGE DONNELLY: What's your position on her argument that the Fifth Amendment Rights against self-incrimination are going to be affected by testimony in this case?

MR. BIBLOWITZ: I must say that I've never heard that, I'm not familiar with the legal issue involved, but I don't believe it has any relevance to these individuals testifying here. These individuals will be testifying as to these incidents that occurred, and they'll be sworn to tell the truth and obviously I assume they will tell the truth, and therefore, I don't see how they can be incriminated. Really, I'm not familiar with --

JUDGE DONNELLY: Any mention of difference that this is a civil matter and that's a criminal matter?

MR. BIBLOWITZ: I would think so, but again, I'm not familiar with criminal law.

MS. ERENSTEIN: I'm a little bit familiar with it. I've been involved in a few criminal trials, but not in some time. As I said, I think if I was a criminal lawyer I would advise the same way. There are many intangibles in putting

74 on a witness. All I can say is, anytime a client gives a statement, it's - - -

JUDGE DONNELLY: In other words, you're concerned about, is the possibility that the Judge in the criminal case will say, "On the basis of what he has testified to, and the National Labor Relations Board proceeding, I'm making a finding of - - - -".

MS. ERENSTEIN: It can be used to impeach him and it is competent evidence to impeach a witness in another proceeding, certainly.

JUDGE DONNELLY: Okay. Well, I'm not disposed to grant the motion. I'm going to deny the motion. So how many witnesses do you have besides the people, it's up to you whether you call them or not, I'm just denying the motion for continuance.

MS. ERENSTEIN: Well, could I ask for an adjournment for several days? I would have to go back and see if we can reassess this position. With respect to several of the witnesses who I would like to call, who are not suffering from this problem, one is Mr. Brown who I indicated would not be available today. Lazaro has not been located as of this time. There was a Mr. Ward mentioned yesterday for the first time. I have not had the opportunity to consult with him. If I had known that something that the Board had in its possession, is something that could have proven to the complain-

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ant there's an allegation, in some way he did something to one of the people. Those are the other witnesses, there may be one or two others, but they would be very short witnesses.

JUDGE DONNELLY: Well, I don't --- you certainly I would think be in a position to put some of your case on. You can't anticipate ---- I don't think you should come in anticipation of favorable rulings by me, not be ready to put on your case.

MS. ERENSTEIN: Well, I explained what the problem is, I can't put those people on without at least consulting with the Lawyer again, and with the Union. The criminal charges are a serious matter.

JUDGE DONNELLY: Well, I realize that but we're also going to be here, you're talking about --- you mentioned this morning that you might not be able to get Mr. Brown down here until tomorrow morning.

MS. ERENSTEIN: Well then, I would ask for an adjournment at least until tomorrow. I'm sure that whatever I put on, it won't take more than a day.

MR. BIBLOWITZ: Your Honor, May I just state for the record, although you've already made your decision; that Thomas Doyle, Kevin Doyle, and Marilee Millstein were subpoenaed to appear by the National Labor Relations Board and obviously they didn't; but I'm not going to send the Marshall after them. I wanted them mainly for identification

76 purposes.

MS. ERENSTEIN: I want to say on the record that to my knowledge only Millstein was subpoenaed. I am not aware that the other two were subpoenaed.

JUDGE DONNELLY; Well, all right, that's neither here nor there, there isn't really any need for it to be in the record, unless you plan to pursue it.

MR. BIBLOWITZ: No. Tomorrow's fine with me, Your Honor.

JUDGE DONNELLY: I have no objection to a continuance until tomorrow morning as long as there's no objection from either of the Parties. I'm not going to insist on it. I will say this, that in view of the fact, that I would normally expect that there will be some witnesses.

MS. ERENSTEIN: There will be some witnesses tomorrow, sure.

JUDGE DONNELLY: I'm assuming that there are some witnesses that you will be calling who don't have these, the people that you're not trying to locate, people that you know now you plan to call and those people are available to you now. There are some people in that classification, aren't there? I'm not asking you who they are, I'm asking you if such people exist?

MS. ERENSTEIN: There's one or two, but if the other people testify, they may not testify.

PROCEEDINGS

10:00 a.m.

JUDGE DONNELLY: We're on the record. Your witness, please.

MS. ERENSTEIN: I call Jerome Brown.

JUDGE DONNELLY: Raise your right hand.

Whereupon,

JEROME BROWN

was called as a witness by and on behalf of the Respondent, and, having been first duly sworn was examined and testified as follows:

JUDGE DONNELLY: Sit down and tell the Reporter your name and your address?

THE WITNESS: Jerome Brown, 288 Riverdale Drive, Stratford, Connecticut.

DIRECT EXAMINATION

Q (By Ms. Erenstein) Who is your employer?

A District 1199, National Union of Hospital and Health Care Employees.

Q What position do you hold?

A Vice president.

Q Do you have an area under your jurisdiction?

A Yes, I do. I'm in charge of the Connecticut area.

Q How long have you held this job?

A Well, I've been Vice President for a little over four years.

Q Now, I call your attention to the -- well, let me ask you -- are you aware of -- have you ever -- do you have any familiarity with the negotiations that took place with Southport Manor Nursing Home?

A Yes, I do.

Q Do you have any familiarity with the union's activities at the Home prior to the strike?

A Yes.

JUDGE DONNELLY: Are you talking about negotiations in connection with the second contract now? Your answer is yes to that?

THE WITNESS: Yes.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) Tell us what kind of conduct you are aware of that took place prior to the strike, regarding the union. What activities did the Employer --

MR. BIBLOWITZ: Your Honor, could we be more specific as to what she means by conduct? Negotiating conduct?

MS. ERENSTEIN: I'll be more specific. I'm trying to think of a way not to lead him. Too much.

Q (By Ms. Erenstein) Did it ever come to your attention, prior to the commencement of the strike, that representatives of the Nursing Home were soliciting and encouraging people to quit the union --

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about the charges that may have been filed -- they are not as good as the charges themselves so --

MR. BIBLOWITZ: I certainly have no objection to that.

JUDGE DONNELLY: The contents of the charge --

MS. ERENSTEIN: And we can submit the settlement agreement?

JUDGE DONNELLY: Well, the settlement agreements were not a part of the case. It's not a part of the allegations. The settlement agreements -- well, you know, you can submit anything you want, but the question of what kind of consideration I will give it is another matter.

Q (By Ms. Erenstein) Were you ever advised by the Board or by your attorneys that merit had been found to the allegations regarding the pre-strike conduct of the Employer?

A Yes, I was, and I was told that there was merit found in the allegations regarding the pre-strike conduct, what they called the 8(a)(1) charges.

Q Would that include the solicitation?

A Yes.

MR. BIBLOWITZ: Your Honor, I think the papers that she'll submit will better show this than --

JUDGE DONNELLY: Well, that's all right. We can take this testimony.

Q (By Ms. Erenstein) Calling your attention to the strike and settlement, were you present when the strike began?

A I was not on the picket line at 6 o'clock that morning or 7 o'clock that morning, but I was at the picket line at various times during that day and during the next couple of weeks on a daily basis at various times. We had another strike going on also and I would be between the two of them.

JUDGE DONNELLY: Do you know what time the strike started in the morning?

THE WITNESS: I think 6:30, 7 o'clock in the morning.

JUDGE DONNELLY: And this was December 3rd?

THE WITNESS: December 3rd.

Q (By Ms. Erenstein) On the first day, would you say you spent a few hours there?

A I would say, yes, at least a couple of hours.

Q What did you observe? How many pickets were there, would you say?

A Well, on the first morning, we had somewhere around 15. In the morning hours. And they were there and we were picketing and they were chanting and what would surprise me the most was that I saw almost as many police as pickets. And then as -- when there were shift changes, on that day and other days that I observed shift changes --

Q Shift changes of the nursing home?

A Right of the nursing home. There were -- in some -- at

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some times, more police than there were pickets and I observed as many as 15 to 17 police, at one time.

Q Did you observe -- what did you observe the police doing?

A Well, the police had their cruisers parked right across the street and they had put horses, wooden horses up, to barricade certain areas and they had a cruiser there that was there all day long for the first few weeks of the strike with their portable camera, like a TV camera, that constantly was taking pictures. Monitoring the picket line with a technician or some sort of officer who was in plains clothes, handling that camera. And as people came or went to the picket line, for example, he would put the camera on them and take -- if they were coming or going, he would take their license plate number and so forth and people getting in or out of their cars and there were numerous police there. And whenever a car approached the picket line, the police would -- especially during the first couple weeks of the strike, they would just put the club up right across their chest and push pickets right out of the way.

MR. BIBLOWITZ: Your Honor, I object. Could I ask the relevance of this testimony?

JUDGE DONNELLY: What's the relevance of whatever -- perhaps misconduct or surveillance, the police may have been have engaged in because there's no charge in this case, against the Police Department. You may answer the question.

THE WITNESS: The police would move the pickets out of the way when a car approached. Physically move the pickets out of the way, by pushing them with their clubs -- by hollering at them, telling them to spread it. To reak, and so forth. They would not even allow the pickets to, for example, finish walking -- a continuous circle. They were moved right out of the way when a car even came down the road, as soon as the blinker came on or if a car came into the top of the driveway, which is -- must be three or four hundred yards up. As soon as the car appeared there, the police broke the picket line and pushed us all to the side and -- in a very brusque way, but there was no -- the police did not allow us to picket in a normal fashion. And we were off to the side, and pushed off to the side every time a car approached and the police also -- you know, on numerous occasions and I was there, refused to allow the pickets to even holler in the morning, before 7, 7:30.

On one occasion they come up with a school bus at about 6:30 in the morning, came up with the school bus. And then a whole number of police -- and said that if anybody made a sound on that picket line, everybody was going into the school bus and going downtown. And being arrested and the -- that was generally what was going on. The change of shifts and at other times. There was this constant -- we would try to walk and chant and sing, and if anybody approached the picket line, the police would break that picket line immediately. You know, before we could even get out of the way and we had to move fast, because there was a question of whether we were going to get hit by a car or by a cop.

Q (By Ms. Erenstein) Now, did you attend any meetings with employees -- with striking employees at that time, to discuss what was going on at the picket line?

A Yes, I did.

Q Do you recall when?

A We started to have meetings on, like Tuesday night, although the first -- I guess we had a meeting the first night of the strike. If I remember correctly. It might have been the first or second night of the strike, we had a meeting at the Westport New England Motor Inn, and then after that we had regular meetings on Tuesday or Wednesdays.

Q Do you recall if Kevin Doyle was present?

A Oh, yes, he was always present at the meetings at Southport.

Q Do you recall a discussion that took place after the

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meeting regarding what went on the picket line. Let me ask you first -- did you have anything to say to the workers about --

A Absolutely. I mean, the picket line was the major subject of conversation. How to make sure we had enough people there and kept the picket line running and so forth and so on and how they should act on the picket line and so forth. That was the major topic.

Q What did you say about how they should act on the picket line?

A Well --

MR. BIBLOWITZ: Your Honor, I don't mean to keep interrupting because -- but again, I keep questioning the relevance of what this gentlemen, even though he is Vice President of the Union, tells the employees on how to act -- as to how they actually did act. I don't see the relevance of that. We have allegations that certain events occurred. Even if this gentlemen told these people not to do that, what does that prove?

JUDGE DONNELLY: Well, that may be, but I think it's relevant.

MR. BIBLOWITZ: Okay.

JUDGE DONNELLY: I'll overrule the objection. You can answer.

THE WITNESS: The workers asked -- and I find this, whenever we have a strike, they feel that if they set a picket line up, that no one should cross it. And, almost -- I'm somewhat amazed, in fact, that people do. And they asked if people had the right to cross the picket line. And we told them, absolutely, people did have the right. But that we should try to discourage them. And that we should talk to them and ask them to roll down their windows and so we could speak to them and encourage them not to go into work, and not to break the line and talk to visitors and tell visitors to remove their patients, and to complain to management and so forth and so on.

But that if people insisted on going in, they had every right to do it. It was a serious problem at Southport because the police would not let you talk to anybody. Even if somebody rolled down their window and I was there on many occasions when people rolled down their window to talk to pickets and the police would not allow the pickets to talk to them and would wave the car through, but even with that, we tried and I explained to the workers and this came up numerous times that people did have a right to go in, but that we should try to discourage them in every legal way we could and especially by talking to them and trying to convince them that they shouldn't break the strike.

Q (By Ms. Erenstein) About how many such meetings would you say you had in December?

A I'd say at least three.

Q At those meetings, did the workers make any complaints about strike breakers trying to hit them with cars or any other conduct on the part of strike breakers?

A Yes. There were numerous complaints about --

MR. BIBLOWITZ: Your Honor, hearsay. I object again on the basis that that would be hearsay testimony.

JUDGE DONNELLY: It surely seems like it. If he's going to testify -- and the responses you're eliciting from him, he's going to be -- about what pickets -- what other people said to those pickets, that's hearsay.

Q (By Ms. Erenstein) Did you ever see any cars not get stopped at the picket line?

A Yes, many times. I saw cars come down that driveway at 25 miles an hour and not stop. I've seen cars turning in there at probably about 15 miles an hour and making the turn into the driveway and not stopping. And almost -- I haven't seen anyone hit, but almost, you know, hitting people. And I've had to jump out of the way myself on a couple of occasions.

MR. BIBLOWITZ: Could you be more specific, Counselor.

MS. ERENSTEIN: How do you mean, sir?

MR. BIBLOWITZ: Well, as to dates, places, cars.

Q (By Ms. Erenstein) Where were you first of all?

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A I was on the picket line.

Q At Southport Manor?

A Yes, Southport Manor. And doing picket duty.

Q And the picket line was at the end of the driveway, wasn't it?

A Right.

Q How far was the driveway from the nursing home? I mean, the end of the driveway.

A About 500 yards, I guess. Maybe not that far. 400 yards.

Q And the end of the driveway was perpendicular to a road?

A Right.

Q And what time period are you talking about now? Where you saw this happen?

A What do you mean, time of the day or time of the --

Q Well, let's take the months first.

A Well, it was December and January. And it was at all various times of the day when I had picket duty which could have been at 7 in the morning, during the afternoon, or 11 at night.

Q Excuse me one second. Do you know if any workers were taken to the hospital because they were hit by cars coming out of the nursing home?

A Yes, I do.

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Q How many times do you know of this happening?

A I know of --

MR. BIBLOWITZ: Excuse me, could we get the source of his knowledge? Did he see this or was he told about it?

THE WITNESS: I was told by the workers.

MR. BIBLOWITZ: Your Honor, I object on hearsay.

MS. ERENSTEIN: He is the Vice President of the Union. He is in charge of Connecticut. He is responsible for this strike and if he doesn't know what's going on -- it's already been admitted by the General Counsel's witness that she was in a car that hit into a striker.

JUDGE DONNELLY: Well, the question is whether or not the information that he received from another employee concerning an incident that this man didn't witness is hearsay or not. I suggest to you, Counselor, that it is. What he can testify to with respect to any incident wherein a striker was hit by a car is his own knowledge as to the incident. He may, very well, have personal knowledge from some other source. Some other information.

Q (By Ms. Erenstein) Do you have any personal knowledge of this?

A Yes.

Q Did you speak to the people who were hit?

A Yes, I have.

Q Who were they?

A Mary Faneuff. She told me --

MR. BIBLOWITZ: Your Honor, she told him. That's hearsay.

THE WITNESS: Well, she was --

JUDGE DONNELLY: Was she the one that was involved in the incident?

THE WITNESS: Yes, she was.

JUDGE DONNELLY: She was hit?

THE WITNESS: Yes, she was. And she asked me about medical benefits. She asked me about whether or not she could miss her picketing duty because of the fact of her injury and also about the hospital bills and so forth. And also about attorneys to advise her about attorneys in case she had any criminal -- you know --

Q (By Ms. Erenstein) When was she hit?

A I think that was in December. There was one other also. Who was hit. Annie Melvin. She was hit. And I had basically the same conversations with her about -- she told me that she was hit and she asked me about basically the same things. Attorneys, medical bills and so forth.

Q I see.

JUDGE DONNELLY: Do you know, of your own knowledge, what the injuries were to these individuals?

THE WITNESS: To Mary Faneuff, what she told me okay?

JUDGE DONNELLY: Yes.

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THE WITNESS: You don't know what you know and what you don't. What she cold me is that -- and that she did have pain and she was seeing an attorney and that she had a back injury and that it was questionable whether or not she would be able to do any nurse's aide work in the future, because of the back injury that she suffered. I don't recall in the case of Annie Melvin what the particular problem was.

Q (By Ms. Erenstein) Well, where -- when was Annie Melvin?

A I would say it was about 6 weeks after the strike. I'm not sure on the date though.

JUDGE DONNELLY: Do you know -- was she taken to the hospital, Annie Melvin?

THE WITNESS: I think she did go --

JUDGE DONNELLY: To your knowledge.

THE WITNESS: No, I'm not sure of that. That I'm not sure of.

JUDGE DONNELLY: Do you know was Faneuff taken to the hospital?

THE WITNESS: Yes, that I know.

JUDGE DONNELLY: How did she get there?

THE WITNESS: I don't know. I think she probably went down --

JUDGE DONNELLY: No, no.

THE WITNESS: I don't know.

Q (By Ms. Erenstein) During the months of December, did you attend any meetings with the police regarding conduct on the picket line?

A Yes, I did. We arranged a series of meetings with the first selectmen --

Q When you say we who are you referring to?

A The Union. I arranged them.

Q Who attended the meetings?

A Well, for us, myself, Kevin Doyle, Vivian Conwell, I think it's Conwell, Mary Faneuff, and Marguerita Bellon. And for the --

JUDGE DONNELLY: How about Thomas Doyle?

THE WITNESS: No, he didn't attend the meetings with the police in Fairfield. And for the police, the first selectman, the Mayor, John Sullivan, the police chief, Mastrinardi. The captain -- Captain Carroll, who is -- I'm not exactly sure what his title is, he acted as kind of a liaison between the police and us during the strike. Captain Campbell who's the head of the patrol division. And there may have been some other police officials but those are the ones that I remember. And Sullivan, the first selectman was only at the first meeting after subsequent meetings with the police, with these others. Sullivan was at the first two meetings. We had one on a

Saturday afternoon, when we picketed down at City Hall -- the Town Hall, because of what we said was the police harassment and because they weren't allowing us our rights to picket.

And we had a meeting that afternoon. And a subsequent meeting the following Monday morning.

Q (By Ms. Erenstein) When was that in relation to the beginning of the strike?

A I would say it was about ten days after. The second Saturday after the strike started. And the next meeting, the Monday morning almost two weeks -- twelve days after the strike started. And, we tried to work out with them ground rules for -- so that our rights would be protected and our people would be protected and so that we would be able to picket peacefully.

Q During those meetings did you make any -- were there any specific types of conduct of strike breakers or employees of Southport Manor that you discussed with them, how they could be controlled?

MR. BIBLOWITZ: I object to that. What's the relevance of all this testimony about meetings and arranging with the police how to, what the future set-up of the police would be at Southport -- where is this relevant to any of the charges -- to these charges that are pending?

JUDGE DONNELLY: Well, I think when you're viewing

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conduct -- I'm just maybe having a guess -- when you're attempting to determine the reasons for misconduct, on a picket line I think it is of some relevance, the instructions the pickets may or may not have had when you're evaluating the events that occurred on the picket line. So I think it has that value myself.

MR. BIBLOWITZ: In this testimony, she's trying to bring out the relationship between the police and the union. It was set up that they were going to work on -- in the future --

JUDGE DONNELLY: Well, I think in a general way the conditions under which the picketing occurred are relevant. And to the extent that these discussions did bear on that matter, the circumstances under which the picketing was conducted, I think it's relevant. I'll allow the questioning.

Go ahead.

THE WITNESS: Well, we made complaints specifically -- I made complaints to the police. That they were not allowing us the opportunity to speak to people on the picket line. We couldn't even get close enough to cars to talk to people. That they wouldn't allow people to roll down their windows to talk to us. Even if they did stop, and that we had the right to do that. And that as long as we didn't obstruct the traffic, that there was no reason why

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we shouldn't be allowed to do it. And we also complained about the camera, the constant surveillance. We felt that that was a very menacing, threatening like for us for picketing of people. And they said that the camera was there for our protection, to -- but we didn't like that.

The question of stopping cars, you know, to give us an opportunity to break the picket line we raised so that they wouldn't just run them right through us. And, that's essentially what we discussed. How we could picket and -- peacefully and have the right to speak to people and not be afraid of being run over.

Q (By Ms. Erenstein) Did you work anything out?

A Well, we did have some understanding of what -- but it was not always kept. By them.

Q And what was the understanding?

A The understanding would be that the picket captains would break the line when cars approached. That people would be permitted to continue their path, I mean, you know, and then we would break the line. We would not hold up cars. That we would have the opportunity, if the person in the car wanted to talk to us, we would have the opportunity to speak to him. That -- those essentially were it. That the police would speak to the picket captain and the picket captain would ask the pickets to break and we would break. And we wouldn't hold up traffic and we would have the right to talk to people. And they said that in turn they would try to scale down the kind of massive presence that they had there. Because it was intimidating.

Q Do you know if they scaled it down?

A To an extent, they did.

Q T[illegible] knowledge --

EXAMINATION

Q (By Judge Donnelly) Can you be more specific?

A Well, in the beginning they did begin to -- they did actually begin to scale it down. They put about six patrolmen for a period of a month or two after that. They had about six or seven patrolmen there at the change of shifts. And then two there during the day. Where before it had been 12 and 15 at the change of shift and at least two and maybe more during the day. And after that -- after another couple of months it was maybe four at the change of shift, and sometimes five and one during the day.

And also the patrolmen did not -- after that point, you know, wave the pickets to break them as cars came, so that there was -- but they did keep the surveillance there for at least another month. The camera --

Q Well, is it your testimony that there was a policeman there all the time?

A Always, always. There was a policeman there and there were policemen inside the nursing home.

Q All right, now is this -- I'm now just talking about the picket line. Was there a policeman there twenty-four hours a day?

A Well, we were picketing about 20. So there were policemen there for all the time we were picketing. I don't know if they stayed there --

Q All right, but as long as -- whenever there was any -- whenever pickets were there, there was a policeman.

A Absolutely.

Q And is that still true?

A It's true 90 percent of the time now. Sometimes during the day -- sometimes during the day, the patrolman who sits right across the street from the picket line, will get a call and go somewhere else. But I don't think that I've been there for more than an hour on any occasion when, you know -- without a policeman being there.

Q All right.

A Always.

FURTHER DIRECT EXAMINATION

Q (By Ms. Erenstein) Did you -- when you were there in the first few weeks of December, at the picket line, did you ever hear the expression, spread them?

A Oh, all the time.

JUDGE DONNELLY: Excuse me, what was it?

MS. ERENSTEIN: Spread them.

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THE WITNESS: Yes. This is what -- not every -- some of the police would say break the line. And some of them would come up and say, "Spread them." And it was particularly obnoxious to the women on the line.

MR. BIBLOWITZ: Let me object. This is a conclusion he's making.

JUDGE DONNELLY: Sustained.

Q (By Ms. Erenstein) Did you ever observe these officers directly when they used that expression?

A Yes, I did.

Q And did they do anything besides say spread them?

A I didn't see anything besides that, no.

Q Did you ever see any facial expressions?

A No, I didn't observe any.

Q Could you describe their tone of voice when they said it?

A Yes, Almost mocking kind of tone of voice. You know, that's the best I can do.

Q All right, what was your understanding of the meaning of the term when it was used?

MR. BIBLOWITZ: Objection.

JUDGE DONNELLY: sustained. Don't answer the question.

THE WITNESS: All right.

Q (By Ms. Erenstein) Did you ever complain to the

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police department about the use of such language? Such expression?

A Yes.

Q Do you know who Officer Harper is?

A Yes, I do.

Q Did you ever see him at the picket line?

A Yes, I have.

Q Did you ever have occasion to make a complaint to the police department about him?

A Yes, I did.

Q What was the complaint?

MR. BIBLOWITZ: Your Honor, what is the relevance of complaints about police officers to the charges here?

MS. ERENSTEIN: Officer Harper testified here and the union asked that he be removed from the picket line for certain reasons. And I'd like him to go into it. He was removed, in fact.

JUDGE DONNELLY: That's okay, but the question is whether or not the testimony is relevant. And I think that the conditions that prevail on the picket line, in a general way, are relevant, so answer the question. Okay, go ahead.

THE WITNESS: Yes, Officer Harper -- I observed him on the picket line in how he spoke to workers and how he spoke to the organizers. And I also sent a telegram at one point -- I'd say about three months ago, not sure of the date. To Chief Mastrinardi and to First Selectman Sullivan because -- requesting that they remove him from the picket line. We had -- there had been complaints made to me by Kevin Doyle and I also asked pickets about it, that he was constantly following Kevin Doyle throughout Fairfield --

MR. BIBLOWITZ: Your Honor, that's hearsay.

JUDGE DONNELLY: It is, unless you observed these things yourself. We want to know the extent of your observations.

THE WITNESS: Okay, fine.

JUDGE DONNELLY: Rather than what people told you about Harper's misconduct.

THE WITNESS: Okay. I sent a telegram asking that he be removed from the picket line. The -- his wife was working as a strike breaker and --

MR. BIBLOWITZ: Your Honor, I object to the term.

THE WITNESS: Scab.

MR. BIBLOWITZ: Was she employed elsewhere --

THE WITNESS: She was a scab.

JUDGE DONNELLY: I understand what the words mean.

THE WITNESS: Okay.

JUDGE DONNELLY: Go ahead.

THE WITNESS: Maybe the NLRB should know. And we felt -- I felt that he could not be a -- I used the word honest or objective enforcer of the law. And I did complain. I complained verbally to Captain Carroll and to Captain Campbell about him.

I observed, in fact, I was there one morning when Harper called Kevin Doyle and I heard him call him, "An Irish Mother-Fucker," you know, making derogatory comments Like that, under his breath, to try and bait Kevin, to fight. And I instructed Kevin to make sure that he kept his temper, that -- because this is what the guy was trying to do.

And, so I --

JUDGE DONNELLY: Let me ask you, what was in the telegram?

THE WITNESS: The telegram --

JUDGE DONNELLY: What did the telegram say?

THE WITNESS: The telegram said that Harper and another officer, I think the name was Messindaro, had been trying to provoke Kevin Doyle and that they had been following him and that we wanted him removed from the picket line and that not only -- and we wanted to make sure -- we were, to be quite frank with you, I was afraid, at that time, that there might be some attempt to set up Kevin Doyle for something, away from the picket line and I wanted to put them on notice that if anything like that happened, that we would -- you know, that we had complained

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about it and that we would take whatever legal action we could and also protest in demonstrations or whatever, because we did have a very real concern about that and they did remove him and other officer from the picket line.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) Now, about how many meetings would you say you had with the police over the course of the strike?

A I'd say at least six or eight. And at these meetings we discussed how we -- complaints that we had about officer's conduct or about them failing to make arrest, if what we felt in certain instances they should have made arrests and about them making arrests when they shouldn't have and also about how the picketing itself was proceeding. We also had a couple of demonstrations and we met with the police to set the ground rules for demonstrations.

Q Who was Tom Doyle?

A Tom Doyle was an organizer with the union in Connecticut.

Q He works under you?

A Yes.

Q In the month of December, what was his assignment by the union?

A His assignment was to be in charge of the picketing at Westport Manor.

Q Where was that located?

A In Westport, about four miles, I guess, from -- five miles from Southport.

Q And, would you say that he spent move of his working time there?

A He spent most of his time there. He was there in December just about 20 hours a day every day.

Q Would that include week-ends?

A He worked at Westport, yes, for the first month of the strike every day.

JUDGE DONNELLY: When did the strike start at Westport?

THE WITNESS: The same day, December 3rd.

JUDGE DONNELLY: How long did it last? Or is it still going on?

THE WITNESS: No, it's still -- it's over. About three weeks ago.

JUDGE DONNELLY: It ended 3 weeks ago?

THE WITNESS: Yes.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) Well, let me ask you this, was he there at Southport at any time when you were there?

A Yes. At about noon, I guess, or one o'clock, I think, the second day of the strike. He came by, I guess, to see me, you know, soemthing to that effect.

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Q To your knowledge, did he spend any time, on other occasions, there?

A No, Tom's assignment for picket duty and so forth was exclusively Westport.

Q Could he have dropped by occasionally?

A Oh, he could have dropped by occasionally for a few minutes, but it would never have been at a shift change or anything -- shift changes, in particular, he was at Westport.

Q Do you happen to know about what time the shift change took place in the morning at Westport?

A The same as at Southport, 7 o'clock.

JUDGE DONNELLY: You're talking -- how about the afternoon shift?

THE WITNESS: 3 o'clock. Nursing homes are all the same. 7, 3, and then 11 at night.

Q (By Ms. Erenstein) Did you play any role in negotiations with the nursing home during the course of this strike?

A Yes, I did. I was in charge of the negotiating committee of the union.

Q Commencing when?

A Well, commencing right after this strike started. I think we had the session -- I would say a week or ten days after the strike started, was the first negotiating

It doesn't have anything to do with the things that we're talking about now. There's no need for this kind of motion. Now, all we're going to do now is make a record and put in all of the testimony that's relevant to the allegations here. The time for a motion is in closing argument and in brief.

Q (By Ms. Erenstein) During those meetings with the police, Kevin Doyle was present?

A Yes.

Q Did the police ever make any complaints to your -- during those meetings about Kevin?

A Absolutely not.

Q Did they ever tell you that Kevin was threatening to kill people and things like that?

A No, they did not.

MR. BIBLOWITZ: When were these meetings, please?

Q (By Ms. Erenstein) When were the meetings?

A There were various meetings. One was two Saturdays after the strike started. One was the following Monday morning and then there were numerous meetings that I had, that Kevin had, with Captain Carroll and Captain Campbell, in fact, we met them one morning for coffee at the Center restaurant in Fairfield to discuss the -- Captain Carroll was on the telephone with me constantly, either my home, he called me in New York on a couple of occasions. When I

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was there. And you know there were numerous meetings.

And there were not any complaints made to me about Kevin Doyle. There was -- one exception to that. And it wasn't about anything that he had done as such, it was that we were complaining about the conduct of a particular police officer, I think it was Mason Darryl, and one of the captains -- I think it was Captain Campbell said to me, "Well, Kevin gave him a hard time," and you know, that they had -- that was the extent -- Kevin gave them a hard time. And, of course, we were saying that Mason Darryl was giving us all a hard time. That was the only thing. They never said anything about he threatened somebody, he did this, he did that, or whatever, no.

Q Have you been by the picket line recently?

A Yes.

Q When was the last time you were there?

A Yesterday.

Q When did you go there?

A About 11 in the morning, I'd say. 11:30, 12 o'clock.

Q How many picketers were there?

MR. BIBLOWITZ: Your Honor, what's the relevance of this. You objected when recent incidents were brought up by counsel, General Counsel's witnesses, and now you're bringing up the picket line yesterday.

MS. ERENSTEIN: Could we go off the record for a

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MR. BIBLOWITZ: Your Honor, I withdraw my objection.

Q (By Ms. Erenstein) How many pickets were there?

A Four.

Q Were police there?

A Yes.

Q How many police?

A One.

Q In a car?

A Yes.

Q All right.

MS. ERENSTEIN: I have no further questions.

MR. BIBLOWITZ: Your Honor, could I have about five minutes?

JUDGE DONNELLY: All right, let's be off the record.

(A brief recess was taken.)

JUDGE DONNELLY: Back on the record.

CROSS EXAMINATION

Q (By Mr. Biblowitz) Mr. Brown, you testified that you spent some time at the picket line in Southport?

A Right.

Q Could you give us an idea what -- how much time you spent total? How many hours, about? Picketing.

A Well, I've been -- I'd say at least ten eight hour shifts over the course of the strike, maybe more. Where I've been the organizer in charge and then I couldn't really count the number of times I've gone by there for an hour, half an hour or whatever. Many times.

Q I realize it's difficult to tell the total amount of time. Now, you also testified that you filed charges against the Southport Manor?

A Correct.

Q And you said that certain charges were upheld by the board?

A Right.

Q And your attorneys -- weren't certain other charges dismissed?

A Yes.

MS. ERENSTEIN: Excuse me, but I thought that he was real anxious to keep all this stuff out.

MR. BIBLOWITZ: I thought I would just clear the record.

Q (By Mr. Biblowitz) Now, going back to December 3rd, 1975, you were present when the picketing began, about 5 o'clock in the morning?

A I said that I wasn't present at the beginning of the picketing on the 3rd. And I don't think -- I wasn't there, but I think it started about 6, 6:30.

Q What time did you get there?

A I got there sometime during the morning.

Q What time was that?

A I don't know the exact time.

Q It was not shift change though?

A No, not the first morning shift change, no.

Q I see, so you can't testify to the number of pick who were present at the shift change?

A On the first day.

Q The first day.

A No.

Q Now, when you did get there that day, how many pickets did you testify you saw?

A About 15.

Q Could it have been closer to 30, 25 to 30?

A I don't think so.

Q Is it possible?

A It's possible.

Q Now, there were meetings held with employees -- I think you stated regularly Tuesday nights?

A Tuesday, Wednesday, it varied.

Q I see, and at these meetings, you told the employees that they should try to discourage people from working?

A Correct.

Q Did you explain to them more specifically how they should go about doing this?

A Yes.

Q What did you tell them?

A I told them to talk to people, to try and encourage them not to be strike breakers or not; to talk to truck drivers who were making deliveries and ask them not to cross the picket line, to generally try to ask people and encourage people and convince people not to cross the line.

Q I see. And there was also some testimony regarding Miss Faneuff.

A Yes.

Q Wasn't it true that when Miss Faneuff went to the hospital that the hospital found that she had suffered no injuries?

A I don't know if -- that that's true.

Q You weren't at the hospital?

A I wasn't at the hospital.

Q All you know is what she told you about it?

A All I know is what she told me and I also discussed the case with her attorney who's handling it.

Q Now, you also testified that you objected to the presence on the premises at the picketing area of the police camera?

A Yes.

Q Video tape machine is what it is?

A Yes.

Q What was your objection to that?

A Objection to it was that the camera was aimed -- constantly was aimed at our pickets and supporters coming to and from the picket line and that, in effect, it was -- to use the phrase that appears in the paper, that it had a chilling effect on the exercise of our rights of free speech and assembly.

Q But isn't it also there to protect you from charges. I mean, wouldn't that camera show exactly what took place. Wouldn't you like that camera there for that purpose?

MS. ERENSTEIN: I'm going to object to this. This is like getting into, do people like to have Henry Kissinger take their phone conversations.

MR. BIBLOWITZ: You brought up the subject of the camera.

MS. ERENSTEIN: What he likes -- I think that's not --

JUDGE DONNELLY: What's the question? You want to know what his objections are to the camera?

MR. BIBLOWITZ: Why did you object to it?

JUDGE DONNELLY: Overruled. He can answer.

THE WITNESS: I think I just told you, that the camera was aimed at people coming back and forth to the picket line. And I hate to -- I don't hate to -- I guess be paranoid about it, but the police in Fairfield have not been overly solicitous about our rights. From the beginning of this strike, and, I find -- as a general rule that whenever we strike, police are not overly solicitous about our rights.

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MR. BIBLOWITZ: Move to strike that.

THE WITNESS: Well, you asked me.

MR. BIBLOWITZ: I didn't ask you about the general --

JUDGE DONNELLY: Well, I won't strike it.

Q (By Mr. Biblowitz) Now, you testified you took statements from employees?

A Correct.

Q Do you have a copy of those statements?

A I don't have a copy.

MS. ERENSTEIN: I've never seen them. I think that maybe the Board might have some.

THE WITNESS: Yes, that's where they would be. They were used as a basis for -- I didn't have signed -- sworn signed statements but they were used as a basis for interviews with the Board.

MR. BIBLOWITZ: I see.

Q (By Mr. Biblowitz) Now you testified that after you made some objections to Officer Harper, he was removed?

A Yes.

Q Now, do you know for a fact that he was removed from that spot or, by order of the police, or is it possible that he voluntarily took himself off that position?

A Captain Carroll told me that he would be removed and subsequently he was not on duty at the strike.

Q When did Captain Carroll tell you this?

A This was when --

Q Campbell or Carroll?

A Carroll.

Q And when was this?

A At the time I sent the telegram.

Q And when, about, was that?

A It --

Q December, January?

A No, it was, I would say, sometime the end of January, the beginning of February, somewhere in there.

Q And where did this conversation take place?

A On the phone.

Q Over the phone?

A Yes.

Q You also testified as to a demonstration.

A Yes.

Q Was that the demonstration on Washington's birthday? Did you organize a demonstration on that day?

A Well, we have --

MS. ERENSTEIN: Excuse me, could you be more specific as to when you testified --

MR. BIBLOWITZ: Yes, there was mention of a demonstration --

JUDGE DONNELLY: There's no question about that. Do you doubt that that's -- that he testified about a demonstration or that a demonstration took place?

MS. ERENSTEIN: He testified when he was talking about meetings with -- with the police, that there was, in fact, a demonstration around the time of the meeting. Now, I am not suggesting that Mr. Biblowitz is trying to be misleading, but Mr. Brown said that when those -- when those meetings took place. This question relates to like -- I don't know when Washington's birthday is, but it's several months later. I think it's -- we will concede --

JUDGE DONNELLY: When did the demonstration take place?

THE WITNESS: We had a series of demonstrations. One was on Washington's birthday.

Q (By Mr. Biblowitz) And isn't it a fact that the union had about 600 people at that demonstration?

A That may be a little generous.

Q 500?

A That might be more like it. That was in Fairfield, in the town center.

Q Now were you present at Southport Manor on the second day of the strike?

A Yes.

Q Were you aware of the fact that Tom Doyle was arrested on that date?

A Yes, I was.

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MS. ERENSTEIN: I'd like to strike that. I'm not exactly sure --

JUDGE DONNELLY: Overruled.

Q (By Mr. Biblowitz) Now, were you present at any joint meetings of the Westport Manor employees and the Southport Manor employees?

A Yes.

Q Was Kevin Doyle there also?

A Yes.

Q At these meetings, did you hear of Tom or Kevin Doyle tell the employees that they should try to get arrested?

A Absolutely not.

Q Mr. Brown, do you know that -- do you know there's a school right across the street from Southport Manor?

A It's not right across the street. It's about a quarter of a mile, maybe not that far, but a few hundred yards, at least, up the street.

Q And while you were on the picket line, did you ever see children walking on their way to school on the road past the -- where the pickets are?

A A few, very few.

MR. BIBLOWITZ: I have nothing further at this time, Your Honor.

JUDGE DONNELLY: Ms. Erenstein?

MS. ERENSTEIN: Yes.

being taken. As I said --

JUDGE DONNELLY: My only question, Counsel, was -- has that appeal actually been filed with the Appeals Division of the National Labor Relations Board in Washington.

MS. ERENSTEIN: I asked for an extension of time and --

JUDGE DONNELLY: Is the answer no?

MS. ERENSTEIN: No, it will be filed on the date prior to the submission of briefs in this case, however. I'm just saying if you would like me to give you a copy of that -- whether it has been taken. It hasn't at this time.

JUDGE DONNELLY: That's all I want to know. Do you have any redirect?

MS. ERENSTEIN: No.

JUDGE DONNELLY: You're excused.

(The witness was excused.)

MS. ERENSTEIN: I would call Marguerite Bellon to the stand.

JUDGE DONNELLY: Would you raise your right hand, please.

Whereupon,

MARGUERITE BELLON

was called as a witness by and on behalf of the Respondent, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Sit down and tell the Reporter your name and your address, please.

THE WITNESS: My name is Marguerita Bellon and I live at 149 Lee Avenue, Bridgeport.

DIRECT EXAMINATION

Q (By Ms. Erenstein) You were one of the employees who worked at Southport Manor?

A Yes.

Q How long did you work there?

A Five years the 18th of this month.

Q What was your job?

A At the time we went on the strike, I was taking care of the laundry. My job was sometimes kitchen help, laundry, housekeeping or nurse's aid.

Q And are you a member of the negotiating committee?

A Yes.

Q And, you went on strike on December 3rd?

A Right.

Q Did you have any responsibility at the picket line?

A I came on the morning, 6 to 12.

Q And you came -- you keep records of who was present on the picket line?

A Right.

Q You've been present at this hearing?

A Right.

Q And you heard the testimony of Margaret Leko?

A Right.

Q About a meeting that took place, a union meeting?

A Right.

Q were you present at that meeting where a strike vote was taken?

A Right.

Q Do you recall when it was approximately?

A The beginning of November, I'm not sure of the day.

Q And where was the --

A Bridgeport Motor Inn.

Q Would you slow down just a little.

A Yes.

Q When did it take place, what time of day?

A In the afternoon, right after work.

Q And about how many people would you say were there?

A I'd say about 30.

Q Do you remember seeing Miss Leko there?

A Yes.

Q You've already testified that people were sitting in rows?

A Right.

Q Is that correct?

A Right.

Q Where were you in relation to her?

A I was in the far row.

Q Where was she?

A On the far row

Q Were you close to h[illegible]?

A I was about three chairs in between.

Q Do you remember seeing --

JUDGE DONNELLY: Was she on the end?

THE WITNESS: Right, I was on one end and she was on the other. There were about six chairs in each row. And she was in one side and I was on another side.

JUDGE DONNELLY: Were you on the end of the row, too.

THE WITNESS: Right.

JUDGE DONNELLY: You were on the other end of the row?

THE WITNESS: Right.

JUDGE DONNELLY: Do you know how many chairs there were between you and her?

THE WITNESS: About 2 or 3.

JUDGE DONNELLY: So the row only had four or five chairs in it?

THE WITNESS: I'd say about 5, 5 or 6 chairs.

Q (By Ms. Erenstein) Do you remember seeing Geraldine Lazarro there?

A Yes.

Q Who was Geraldine Lazzaro?

A She was an employee at Southport Manor, too.

Q Was she still working there --

A No.

Q Let me finish. When you went on strike, do you know if she was still working there at that time?

A December 3rd?

Q Yes.

A No, she wasn't.

Q Did she ever come to the picket line?

A No.

Q Have you ever seen her since the strike began?

A The last time I seen her, it was in November.

Q Do you recall seeing her at that meeting?

A Yes.

Q There was some testimony by Ms. Leko that Tom Doyle was present and he said some things to the people. To the whole group, and that there was talking amongst different people -- talking amonst themselves. Do you agree with that?

A Yes.

Q Did you see anybody else at that meeting? Were you in the room the whole time?

A Right.

Q Up to the time that the vote was taken?

A Up to the time everybody leaves.

Q Did you see anybody stand up and say anything to the group of people?

A No.

Q Did you see Geraldine Lazarro stand up and yell something to Leko?

A No.

Q Did you ever hear her get up and say she was going to break her arm?

A No.

Q If she had stood up during the meeting and said anything in a loud voice, would you have been able to hear her?

A Yes.

Q As far as you know, no one said anything to the group in general other than Tom?

A No.

Q Do you know the outcome of the vote by the union?

A It was unanimous.

Q Did you personally know at that time of Margaret Leko --

JUDGE DONNELLY: How did you know it was unanimous?

THE WITNESS: Because they count the vote. When everybody finished -- it was a secret ballot --

JUDGE DONNELLY: Yes.

THE WITNESS: And when everybody finished, they took them out and they counted them right there. And they asked --

JUDGE DONNELLY: Did you count them? How did you know it was unanimous? Did they do it --

THE WITNESS: They was doing it one by one. They was taking the piece of paper, opening it, and they was doing it one by one. And they was putting it aside.

JUDGE DONNELLY: So you saw all the ballots?

THE WITNESS: Right.

Q (By Ms. Erenstein) At that time that the vote was taken, were you aware of Miss Leko's sympathies for or against the union? Or the strike?

A She agrees with everything. The union was doing -- She had the sympathy about the union.

Q How do you know that?

A Because she was usually go to the meetings.

JUDGE DONNELLY: What was her sentiment about the union?

THE WITNESS: She never say nothing, always she was with the union.

Q (By Ms. Erenstein) Did she ever tell you anything about being against the strike?

A No.

Q Did you ever hear that she was against the strike?

A No.

Q All right, now, Ms. Leko testified also while you were present in this room that when -- one day she brought her car to work because the van had broken down. Do you remember that day?

A Yes.

Q How do you remember it?

A Because when she stopped for us to break the line, everybody was surprised on the line. I was the one -- Margaret Leko's in that car. She was driving -- her husband was driving a black car. And there was three more people sitted -- we were surprised until the time we see her passing the line in the car.

Q All right, so you remember those times?

A Yes.

Q Where -- that was around the beginning of the strike, wasn't it?

A Right.

Q Do you recall if there were pickets present?

A Yes.

Q Do you recall were there many police present?

A Yeah, we had many policemen.

Q Do you recall when her car came, what happened with respect to the police? Did the police do anything when that car came?

A Well, that time the police not even waiting --

As soon as they see a car coming in with a signal light on, the started saying, "Break, or spread it." They didn't wait. Until the cars get in there.

Q What did they do?

A They got a stick and hold the stick so nobody can pass the line or nobody can touch the cars.

Q Did they physically move you back?

A Right.

Q How?

A Pushing you with the stick.

Q And where did they move you to?

A To the back.

Q You're saying before a car would turn into the driveway --

A Right.

Q Did the police stand next to each other -- how did they --

A They hold the stick at each other. First when the car's coming in they hold the stick like this and they push back. And then they --

Q You say before a car would turn into the driveway and --

A Right.

Q Did the police stand next to each other?

A They hold the stick with each other.

Q Yes.

A They hold the stick like this and they push back and then they hold the stick together so that car can pass.

Q Do you remember specifically that was done when her car came in?

A Yeah.

Q Did she drive a car on other occasions?

A No.

Q Do you know how she got there on the other occasions?

A Must be in the van.

Q Were you present at the picket line on the morning of December 8th, when a car with several women including Barbara Crimin -- on the picket line?

A Yes.

Q Where were you?

A I was next to Mary Hills. I was on the left side of Mary Hills.

Q Mary Hills is another striker?

A Yes.

Q You were on the left side?

A Yes.

Q And you were on the driver's side --

A Right.

Q Where was Mary Hills standing in relation to the vehicle?

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A She was standing over my right side.

Q And in terms of the driver's window --

A The passenger's window, yeah.

Q Do you recall if the windows of the car were open?

A The driver's side window was about half open. And the back window, the driver's side, was open down and the car was passing by and they got to stop right in the center of the line. She opened the window down.

Q Who opened the window down?

A Barbara Crimin.

Q That's the woman you testified --

A Right, that's what I know her name.

Q You didn't know her otherwise?

A No.

Q She put down the window?

A Right.

Q Tell us what happened?

A She put the window down and she got a cup of cocoa in her hand and she stick her head out of the car and she says, "You're fucking with the wrong one now." "And instead of have a car for our protection, they should have a car for your ass protection. You're not getting your job back."

And she was trying to throw the cup of cocoa on Mary Hills. So Mary Hills --

Q Wait a minute. The tape recorder is not going to show what you were doing with your cars so let me ask you questions.

She was holding the cocoa --

A On her right hand.

Q Okay and she was facing --

A Mary Hills.

Q She put her head out the window?

A Right.

JUDGE DONNELLY: Who was driving the car?

THE WITNESS: I don't know that girl's name.

JUDGE DONNELLY: Where was Crimin?

THE WITNESS: She was in the back seat. On the driver's side.

Q (By Ms. Erenstein) So you say she put her head out the window?

A Yes.

Q And she said the various things that you said?

A Yes.

Q At that time when she first opened the window she said the different things?

A Right.

Q What did she do with her-- she was hold the cocoa in her right hand?

A Right.

Q What did she do with her hand?

A She was holding the cocoa with her right hand and she was -- going to throw the cup of cocoa right at the girl who was in front of her and that was Mary Hills at that time.

Q How do you know that she was going to throw it?

A Because you could see what she was going to do -- she was trying to.

Q She was moving her hand?

A She was moving her hand.

JUDGE DONNELLY: Was her hand inside the car or outside the car?

THE WITNESS: No, her hand was up to the elbow outside of the car.

JUDGE DONNELLY: So she had her hand outside the car?

THE WITNESS: Right.

JUDGE DONNELLY: With the coffee in it --

THE WITNESS: It was cocoa.

JUDGE DONNELLY: With the cocoa in it?

THE WITNESS: Right.

Q (By Ms. Erenstein) Now what happened -- she moved her arm -- her hand with the cocoa --

A She was going to throw it to Mary Hills. So Mary Hills knowing the intention that she had, she was trying to hold her hands. That's how they spill all the cocoa to Mary Hills, right on the right side.

Q Did she knock the cup out of her hand when she did that?

A No.

Q And it just spilled --

A Spilled, yes.

JUDGE DONNELLY: How much of her arm was out of the door --

THE WITNESS: Just above her elbow.

Q (By Ms. Erenstein) Were the pickets -- when the car came through the line, did the pickets yell things in the car?

A Yes.

Q What?

A Scab, coons, asses --

JUDGE DONNELLY: Did you say those things? Did you say those words?

THE WITNESS: Coons, yes. And scabs, yes.

Q (By Ms. Erenstein) I forgot to ask you something. When Miss Leko and her husband and some other people were coming through the picket line in the black car, and the police were pushing people back, were there any strikers near the car when it came through?

A No.

Q Do you remember seeing Myrtle Nicholson there on that

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day?

A Not at that time. She doesn't go there early in the morning.

Q What time does she go?

A She usually go to the line after 8:30.

JUDGE DONNELLY: Who's Myrtle Nicholson? Is she a striker?

THE WITNESS: Yes.

Q (By Ms. Erenstein) Now, the situation that you described with the police pushing people away from -- when a car would come down the street and put on his turn signal, did that continue -- well, how long did it go on, let me ask you that?

A Well, sometime after the first week of the strike, sometime when they feel like it. Sometime they sit around the car and they don't care. But I feel that at the beginning of the strike they were doing that. After they have the meeting with Captain Campbell. They straightened up everything. Because when the strike begins, it was very hard for you to say anything, or move that much in the line, because you could get pinched for anything.

Q Do you know Cora Bennett?

A Yes.

Q Who's she?

A One of the strikers.

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Q Has she been picketing ever since the beginning of the strike?

A Right.

Q Do you know what her picketing schedule is?

A The first two weeks before Christmas she was on the afternoon shift. Right after Christmas, she's been coming in the morning.

Q And that's when you were there?

A Right.

Q How many days a week does she come?

A 6 days.

Q What time does she leave?

A Between 11, 11:30.

Q I see.

A I'm the last one that leaves on the lines so I have to check the time.

MR. BIBLOWITZ: 11:30 a.m.?

THE WITNESS: In the morning.

JUDGE DONNELLY: When does she come?

THE WITNESS: 6 o'clock in the morning.

JUDGE DONNELLY: She comes at 6?

THE WITNESS: Yes.

JUDGE DONNELLY: Ever since Christmas?

THE WITNESS: Right.

JUDGE DONNELLY: She comes at 6 in the morning?

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THE WITNESS: And leaves about 11, 11:30.

JUDGE DONNELLY: And leaves at 11, or 11:30.

THE WITNESS: Right.

JUDGE DONNELLY: In the morning, and that's been since Christmas? Up until --

THE WITNESS: Until now.

JUDGE DONNELLY: Until presently?

THE WITNESS: Yes.

JUDGE DONNELLY: Has she been on the picket line at any other time besides those times?

THE WITNESS: No.

JUDGE DONNELLY: Okay.

Q (By Ms. Erenstein) Did I ask you to check -- did you have --

JUDGE DONNELLY: Now, I'm not talking about your schedule. I'm not talking about whether she was scheduled to --

MS. ERENSTEIN: No, she takes attendance.

JUDGE DONNELLY: Let me ask the question, Counsel.

MS. ERENSTEIN: I'm sorry.

JUDGE DONNELLY: I'm not talking about whether she was scheduled to be on the picket line at any other time. I'm asking you whether she actually made any physical appearance on the picket line?

THE WITNESS: Not that I know of.

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EXAMINATION

Q (By Judge Donnelly) Let me finish. At any other time except the times that she was scheduled for picketing duty?

A Not that I know of.

Q Okay, and what hours were you on the picketing line?

A From 6 to 12.

Q From 6 to 12?

A Right.

Q All right -- okay --

MS. ERENSTEIN: And normally, what time would she lave?

THE WITNESS: She would leave between 11 and 11:30. She was driving her own car.

Q (By Judge Donnelly) How long is the picketing shift supposed to last?

A From 6 to 11:30.

Q From 6 to 11:30?

A Right.

Q And then another shift came on?

A Right.

Q What hours?

A 11:30 until after -- before we have another shift coming in the afternoon until 11 o'clock.

Q And you would stay there later than that?

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A Until 12. Because I have to wait for a ride.

Q Your picketing duties ended at 11:30?

A Right, but I stay on the line.

Q You would stay there until 12?

A Right.

Q So there was an overlap, is that right?

A Right.

Q The other pickets had come at 11:30?

A Right.

Q But you stayed there until 12?

A Until 12.

Q And why did you stay until 12?

A Because I have to wait for a ride.

FURTHER DIRECT EXAMINATION

Q (By Ms. Erenstein) You know who Brad Sherman is, don't you?

A Right.

Q Have you seen him -- every day?

A Every day, yes.

Q Could you tell me some of the things you've seen him do when he comes to the picket line?

A Like the thing he do is stick the finger. One time he pulled window down and called Kevin, "You're an ass face." That I know, because he directed to him. I was there. And, call him names like Mother-fuckers. You shiteaters.

Q Have you ever heard him refer to anybody as coon?

A I think I heard him one time to say that.

Q Have you ever seen him --

JUDGE DONNELLY: Who did he say that to?

THE WITNESS: Just open the window and say to the bunch of people who was there.

JUDGE DONNELLY: It wasn't directed towards any one individual?

THE WITNESS: No, he don't mention no names that time.

Q (By Ms. Erenstein) There are times when you saw him come out for the term -- and come out and return many times?

A Sometimes, I think he's doing it for fun.

MR. BIBLOWITZ: Your Honor, I object, that's speculation.

JUDGE DONNELLY: Sustained.

Q (By Ms. Erenstein) How fast does it happen?

A Not even 5 minutes.

Q What happens?

A He's going in with his truck and leave his truck in there and get -- not the van, the station wagon, he got at the Manor. Bring it down, go around in the car and come back. Bring the station wagon back and bring his truck out. Every time he passed when he's doing that, he

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laughed.

Q He what?

A He laughed.

Q Does he ever say anything to -- or do anything?

A No.

Q Do you know who Officer Harper is?

A Yes.

Q Do you recall seeing him at the picket line?

A Yes, he was there on the picket line.

Q Do you recall anything in particular that he did?

A Well, I think they remove him because we made a complaint --

MR. BIBLOWITZ: Your Honor, I object, move to strike.

JUDGE DONNELLY: Sustained.

Q (By Ms. Erenstein) Do you recall anything that he said while he was at the picket line?

A He just asked one time that when the van passed, I don't want to hear no bad words. Because there's somebody very special on the van.

Q Did you ever hear him use bad words?

A I haven't heard but I see him doing bad things, like stick the fingers to the girls.

MR. BIBLOWITZ: I move to strike. It wasn't responsive to the question.

JUDGE DONNELLY: Sustained.

Q (By Ms. Erenstein) Did you ever see --

JUDGE DONNELLY: Try to answer -- when she asks you a question, just answer the question that she asks you.

Q (By Ms. Erenstein) Did you ever see him make any gestures with his hands?

A Stick the finger to me especially.

Q Could you --

A Stick the finger to me. Because I told him that he can go now because his wife already passed in the van. So he sticked the finger at me and he go.

JUDGE DONNELLY: The record ought to show that she's raising in a vertical position the middle finger on the right hand. Is that correct? Is that the gesture that you're talking about?

MS. ERENSTEIN: Which hand?

JUDGE DONNELLY: Well, she used her right hand.

THE WITNESS: Yeah, because he was standing up and his right side --

JUDGE DONNELLY: Now, just a minute. Can we stipulate that that was the gesture that she made on the witness stand in answer to your question?

MR. BIBLOWITZ: I will so stipulate.

MS. ERENSTEIN: Yes.

JUDGE DONNELLY: Okay, I'll receive that stipulation.

Q (By Ms. Erenstein) Did you ever hear him say anything in particular?

A In the picket line?

Q Yes.

A One time when the van was passing.

Q You said that.

A He was in the line and he said he don't want to hear nobody to say bad words because somebody in the van there was very close to him. If he hear anything bad, he was going to clean the line. So Kevin was in the line and it was going around in circles and I was next to Kevin, and Kevin says, "Come on," and I says to him, "I don't think no policeman should have a -- treat people like that."

MR. BIBLOWITZ: I move to strike the question. The question was, did you hear him say anything bad. And I believe she testified twice --

JUDGE DONNELLY: If you could just answer the questions that she asks you, without getting into a long discussion, that had to do with something that she hasn't asked you about. You see, the lawyer, if she wants to get information from you, she knows the questions to ask to get that information.

Q (By Ms. Erenstein) Did you ever hear Harper threaten Kevin Doyle?

A That day he did, but I can't remember what he says.

Something like, you want to be on my foot, or something like that. I can't remember. Then he says, "Suck," and I says, "You suck, yourself."

MR. BIBLOWITZ: Your Honor, again, I move to strike. The question was answered and then continued with a different subject.

JUDGE DONNELLY: Well I won't strike it, but I'm not sure I understand it. If you'd like to clarify it, Counselor, if you think it means something to your case. I wish you would, because I don't understand the response.

Q (By Ms. Erenstein) What do you think Officer Harper said to Kevin Doyle?

A Something like, well, when we was talking about a van. The conversation we had. He was talking about a van. And he was directing to Kevin, like, he was going to clean the line. And Kevin was going to be on his foot.

Q On his foot?

A Right.

Q Did you see Tom Doyle very often in the beginning of the strike at the picket line?

A No.

Q Was there a time when he began to come there regularly?

A I think at the beginning of the strike, one time, he came to the line and he didn't even get a chance to go in to the strike line.

Q Wait a second, we're going to get into this objection again, I'm sure. I asked you, was there a time when he came to the picket line regularly?

A No.

Q Afterwards, did he ever start coming to the picket line on a regular basis?

A No.

JUDGE DONNELLY: Well, just so that I understand what a regular basis means. How many times since the strike started --

THE WITNESS: Well, he's coming often.

JUDGE DONNELLY: Let me finish the question. How many times since the strike started, have you seen -- how many days, let's put it that way, how many days have you seen Tom Doyle on the picket line since the strike began?

THE WITNESS: How many days?

JUDGE DONNELLY: Yes.

THE WITNESS: I think I see him about -- straight days, I think about --

JUDGE DONNELLY: No, not straight days, altogether, total days. Not days in a row. Total number of days. Altogether.

THE WITNESS: You mean, when he pass in the car and say, how are things doing, keep going, that's counted, too?

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JUDGE DONNELLY: Yes.

THE WITNESS: I'd say about 60 times.

JUDGE DONNELLY: How many?

THE WITNESS: 90 times. 90 days. Because sometimes he'd pass on the car and keep going.

Q (By Ms. Erenstein) During the first few months of the strike, did Tom have any shift duty at the picket line?

A No.

Q Did he start having shift duty at some time?

A right after they closed Westport.

Q When was that?

A About 3 weeks ago.

Q During that -- before that time, you say he would come by in his car --

A Right.

Q Did he stay at the picket line?

A No, he wouldn't get out of the car. He just come in, ask for either Jerry or Kevin and keep going.

Q He didn't picket?

A No.

Q What time of day would this be?

A In the morning, anytime. Between 6 and 12.

Q Was Tom Doyle at the picket line on that day when you saw Leko's car?

A No.

Q Are you sure?

A Positive.

Q Did you ever hear Kevin make any threats to Brad Sherman?

A No.

Q Do the employees still come in the van to work now?

A Some of them, yes.

Q In the beginning, did most people come in the van?

A Right.

Q What does this van look like?

A It's blue. And it's --

Q About how big is it? Is it like a pick-up truck?

A Just about.

Q What kind of windows does it have?

A You mean, the big size of the window?

Q The windows roll down -- what kind --

A No, they can't open. You can't open the windows. I don't think so.

Q You've never seen the windows open?

A No. Only the driver, in the driver's seat. The driver's side, and the passenger's, that's all.

Q Does it have curtains?

A Right.

Q In the windows?

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A Yes.

Q Do they close these curtains?

A Some of the time, some of the time they open it, because when the strike breaker, when they pass, they opened the curtains.

MS. ERENSTEIN: No further questions.

CROSS EXAMINATION

Q (By Mr. Biblowitz) At this time --

MR. BIBLOWITZ: Could I have this marked as General Counsel's 2, please.

(The document, above-referred to, was marked as General Counsel's Exhibit Number 2, for identification.)

JUDGE DONNELLY: Go ahead.

Q (By Mr. Biblowitz) Ms. Bellon --

A Yes.

Q You testified earlier that the police would take their sticks up to like their shoulders --

A Right, sometimes, not all the time.

Q I see. To try to keep everybody back?

A Right.

Q But this doesn't occur all the time?

A Not all the time. At the beginning of the strike, yes.

Q I see.

A Like a few days -- a few days after the third, yes.

Q How many people were there on the first morning? How many people did you have?

A I'd say about 15.

Q 15?

A Yeah, I'm not sure.

Q Is this book here a book of your records of the number of attendance at the strikes?

A Right.

Q Would you have any objection if I look at it?

A No.

MS. ERENSTEIN: Yes.

MR. BIBLOWITZ: Yes, you would have an objection or yes, you would not have an objection?

MS. ERENSTEIN: Yes, I would.

MR. BIBLOWITZ: Okay.

Q (By Mr. Biblowitz) I show you what's been marked as General Counsel's 2.

A Yes.

Q This is a picket obviously taken of the picket line. Could you tell me what you see in that picture?

MS. ERENSTEIN: I object. I object to the question on the grounds of -- well, first of all, if you're going to put the picture in evidence --

MR. BIBLOWITZ: Well, I'm not sure I am. I'm not

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MR. BIBLOWITZ: It will soon be evidence.

JUDGE DONNELLY: Well, I don't think this should be -- why don't you step back.

Q (By Mr. Biblowitz) December 8th, what time of car did Miss Crimin drive up in? What kind of car was it?

A It was a green car. I can't tell you what kind of car it was.

Q Is it a new car or an old car?

A Old car.

Q Old car?

A Yes.

Q Now, I believe you testified that the front window was open about halfway?

A Right.

Q The driver's window?

A Right.

Q And that the back window behind the driver was also open about halfway?

A It wasn't open. She opened the window. She rolled the window down.

Q About halfway?

A No, all the way down.

Q All right, all the way down?

A Right.

Q I see, okay. Now, you testified also, I believe, tell me if I'm wrong, that she stuck her head out the window?

A Right.

Q Now, how big was the window? In -- let me see, in -- let's say, in height. From the bottom of the window, to the end where you can roll it up. Was it three inches, six inches, nine inches, twelve inches, fifteen inches? Do you have any idea?

A No, I have no idea.

Q Was it higher than it was wide? Or was it about equal? In height and width?

A It must be equal. I don't know.

Q But you're testifying that she stuck her head out the window?

A Right.

Q And, again, tell me if I'm wrong, and you testified that she also stuck her arm out, up to her --

A Elbow.

Q -- up to her elbow?

A Right.

Q Now, was her body out of the window also?

A Just about here, I guess.

Q Up to there?

A Right.

Q Indicating about the height of the breast, right?

A right.

Q So she obviously wasn't sitting down anymore?

A No.

Q I see. What did she do at that point?

A When she stick her head out of the window?

Q Yes.

A She says --

Q I'm sorry, I don't mean to interrupt but which came first, the head out the window or the arm out the window?

A Both the same time.

Q Both the same time?

A Right.

Q And what happened next?

A She says that she was fucking with the wrong ones.

Q Now, at that point, is it possible that she did not -- it was hot chocolate in the cup?

A Hot cocoa, yeah.

Q Hot cocoa. Is it possible that the hot cocoa had already been knocked out on her at that point?

A No.

Q Do you know that for sure?

A I'm sure. I was right there.

Q Did you see, from the moment the car turned into the driveway?

A Right.

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Q And so you know it was a full cup of hot cocoa, at that point?

A Yeah.

Q And then what did she do at that point? After she said, you're fucking with -- what was that?

A With the wrong ones.

Q I see. And who did she say that to?

A She was saying to the one that stayed over there.

Q Who was that?

A Nancy Convoy was on the right side. Mary Hill was in the center and I was on the left side.

Q I see. And what happened at that point?

A At that point, she was -- like she said, she was going to try to throw the hot cocoa over the one who was --

Q All right, just tell us -- I move to strike that. Tell us what occurred, not what you think was in her mind.

A She was going to throw that --

MS. ERENSTEIN: Would you describe what you're doing with your hands --

Q (By Mr. Biblowitz) Yes, it's not shown on the tape recorder. Tell us what she did. Describe it for us.

A She was moving her hand. Through the car, to throw the cocoa to Mary Hill. Mary Hill hold her hands --

Q But wait a minute, you're saying she moved her hand out of the car?

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A Right, the whole arm out of the car.

Q But you testified earlier that her head and her arm, from the shoulder --

A To the elbow.

Q Was already out of the car?

A Right, but she has to move her whole arm out of the car to try to get the arm moving.

Q But didn't you testify earlier that her hand up to the elbow was out of the car already?

A Right, but she'd have to move the head and the whole arm out of the arm.

Q Oh. And then what happened?

A And then what happened, Mary Hill hold her arm. And that's when all the hot cocoa went over from Mary Hill's right side on her coat.

Q Did any of the hot cocoa get on to Barbara Crimin?

A I don't know. I was just looking at Mary Hill. I don't know about her.

Q But Barbara Crimin was, as you described it, pretty much out of the car at this point?

A Right.

Q But you didn't notice whether any hot cocoa got on her?

A No, because right away they left. The car started and they left.

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Q Now you testified that you and other pickets yelled at some of the non-striking employees, words like scabs and coonies?

A Right.

Q Could you give us some other examples of what -- what you would say to the employees?

A Coons, scabs, asses, cheapskates.

JUDGE DONNELLY: What do you mean when you said raccoons or coons? What does that mean?

THE WITNESS: I think -- I'm not sure. I think it's an animal. They stink. I don't know.

JUDGE DONNELLY: Is that what you understood it to be?

THE WITNESS: Yeah.

Q (By Mr. Biblowitz) Doesn't that word have a racial tendency to it?

A Yes.

Q Have you heard of it?

A I don't know.

Q Did you ever say to any employees, "We're going to get you"?

A We're going to get you?

Q Yes.

A No.

Q Did you ever say that?

A No.

Q Now, you usually left the picket line by 12 o'clock, didn't you?

A Right.

Q So you would have no way of knowing whether a certain employee was on the picket line at 1 o'clock, would you?

A No.

Q I assume it's also safe to say that you don't have a -- you don't get a copy of Bradley Sherman's work schedule, is that right?

A (No response.)

Q Is that true?

A I don't have a copy of Brad Sherman's schedule?

Q Yeah, schedule of jobs he has to do?

A No.

Q So you wouldn't really know whether he was just -- as you say, fooling around and trying to get the pickets -- or whether he was really going on jobs, would you?

A No.

MR. BIBLOWITZ: I have nothing further, Your Honor.

JUDGE DONNELLY: Do you have anything else, Ms. Erenstein?

MS. ERENSTEIN: Yes.

REDIRECT EXAMINATION

Q (By Ms. Erenstein) Have you ever heard Cora Bennett use this expression, 'coon'?

A Yeah.

Q More than once?

A Yeah.

Q Is she black or white?

A Black.

Q All right.

MS. ERENSTEIN: I have no more questions.

JUDGE DONNELLY: You're excused, thank you.

THE WITNESS: Thank you.

(The witness was excused.)

MS. ERENSTEIN: Could we go off the record?

JUDGE DONNELLY: Let's go off the record.

(Discussion off the record.)

JUDGE DONNELLY: Back on the record.

MS. ERENSTEIN: I'll call Lucinda Giles to the stand, please.

JUDGE DONNELLY: Would you raise your right hand, please.

Whereupon,

LUCINDA GILES

was called as a witness by and on behalf of the Respondent, and, having been first duly sworn, was examined and testified as follows:

JUDGE DONNELLY: Tell the Reporter your name and your

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address, please?

THE WITNESS: Lucinda Giles.

HEARING REPORTER: That's G-i-l-e-s?

THE WITNESS: G-i-l-e-s.

JUDGE DONNELLY: And your address?

THE WITNESS: 213 DeForest Avenue, Bridgeport, Connecticut.

DIRECT EXAMINATION

Q (By Ms. Erenstein) Are you one of the striking employees at Southport Manor?

A Yes, I am.

Q What was your job before the strike?

A Nurse's aid.

Q How long have you been employed there?

A Well, this month, it would have been five years.

Q And have you been picketing since the beginning of the strike?

A Yeah, in the beginning, but April, I wasn't there.

Q Where were you in April?

A I was doing private duty.

Q But other than that, you've been there?

A Yes. Off and on.

Q Do you recall the meeting -- well, I should ask you the other question. You were present, weren't you, in the Hearing Room when Margaret Leko testified?

A Yes, I was.

Q Do you remember her testimony about a strike meeting?

A Yes.

Q Were you there at that meeting?

A Yes.

Q Where were you sitting?

A I was sitting up front on the side in one of the big leather chairs.

Q And could you see the other people?

A I sure could.

Q Did you see Margaret Leko there?

A I did.

Q Did you see Geraldine Lazarro there?

A Yes, I did.

Q During that meeting, you saw -- at some point, you saw Tom Doyle make some comments to the whole group?

A Yes.

Q Did you see anybody else make any comments to the group?

A No.

Q Did anybody else stand up and say anything in a loud voice?

A No.

Q Did you see -- about ten minutes before a vote was taken, did you see Geraldine Lazarro get up and say

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something in a loud voice from the back of the room?

A No.

Q Did you see anybody get up and yell anything?

A Nobody got up, no.

Q Did you hear anybody sitting down yell something?

A No.

Q Did you hear any threats being made to anybody about breaking their arms?

A No.

Q Did you have any idea, at that meeting, of Margaret Leko's sentiments about the strike?

A No.

Q Did you have any reason to think that she was for it or against it?

A No.

Q Do you remember what the outcome of the vote was?

A It was unanimous.

Q All right. Now, you were present when Barbara Crimin testified, too, weren't you?

A Yes.

Q Do you recall her talking about a time when Kevin Doyle was pounding on some car windows some time in December -- in late December?

A Yeah.

Q And she was in a car? Barbara Crimin and some other people?

A Yeah.

Q Do you remember what time -- were you there, then?

A Yes, I was.

Q You were at the picket line at that time?

A I was.

Q Do you remember that incident?

A Yes, it was about noon and we were picketing -- walking around in circles and the cars coming down the drive and it kept coming toward us. She didn't stop, she just slowed down. And we didn't -- so we started moving out of the way, because she looked like she wasn't going to stop, so we started moving to the side. Barbara -- I mean, Mary Faneuff was the last one to get over on the right side. And the car hit Mary, the right front of the car hit Mary and when it hit her she jumped up on the hood of the car.

Q And what did the pickets say?

A And we kept yelling and Kevin Doyle was banging on the window for her to stop.

Q What were you yelling?

A For her to stop. That she had hit Mary and in the meantime, we started yelling for her to stop. She stopped and Mary Faneuff got down and then the police beckoned for them to come over -- to drive over across the street.

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Q Did Kevin -- was he pounding on the windows before they hit Mary?

A No, he was not.

JUDGE DONNELLY: How fast was the car going when it hit Mary?

THE WITNESS: It wasn't going that fast. She was rolling all the time, she didn't come to a complete stop. And we saw that she wasn't going to stop, so we -- everybody started jumping back. And they was continuing to roll when Mary was going over to the right side of the drive. And the right front of the car hit Mary and Mary jumped up like that on the hood of the car.

JUDGE DONNELLY: Can you tell us -- was the car in motion at the time --

THE WITNESS: Yeah, it was moving, right.

JUDGE DONNELLY: All right.

THE WITNESS: And it continued to move while she was on the hood.

JUDGE DONNELLY: Was it moving fast or slow or can you describe it?

THE WITNESS: It was going slow, say, maybe about -- I don't know -- it wasn't going that fast. It was just going slow.

Q (By Ms. Erenstein) About how many pickets were there?

A I really couldn't say how many, but I remember a few people that was there. I was there and Annie Melvin was there, Cora was there. And I can't remember who all was there.

Q Do you know why Mary was on the hood?

A Well, I thought it was to keep the car from knocking her down, because if it had of knocked her down, it probably would have ran over her.

MR. BIBLOWITZ: I move to strike that. That's a conclusion.

JUDGE DONNELLY: Yeah, I'll sustain it.

Q (By Ms. Erenstein) When she -- after it hit her, is that when you started yelling stop?

A Yeah.

Q And that's when Kevin started pounding?

A Pounding on the window for her to stop.

Q How long after that did they stop?

A Well, they stopped -- they continued to the end of the drive and she stopped and then the policeman pulled her over. Pulled her across the street.

Q Do you know if Mary went to the hospital?

A Yes, she did.

Q How did she get there?

A I don't really remember how she got there. I don't know whether the police took her or one of the picketers took her. I can't say.

Q Did you see anything come out of -- did the police take anything out of that car, after they stopped it?

A Well, after they stopped it, they pulled them over. They took the -- I don't know whether it was sticks or what they were. They took them out of the car. They made the girls take them out of the car and put them in the trunk.

Q Do you know -- you knew Geraldine Lazarro, didn't you?

A Yes, I did.

Q What shift did you work on?

A 11 to 7.

Q What shift did she work on?

A 11 to 7.

Q Do you know if she worked up to the time of the strike?

A She quit before the strike. My night supervisor told me that she resigned.

Q Who's your night supervisor?

A Mrs. Walters.

Q Did you ever have any particular conversation with Geraldine Lazarro about whether she quit or not?

A No.

Q Did you see her after the strike began?

A No.

Q She was never out there picketing?

A No.

MR. BIBLOWITZ: Excuse me, may I, at this point, make a motion to strike her testimony regarding when Geraldine Lazarro quit, since the statement was made to her, not by Geraldine Lazarro?

JUDGE DONNELLY: I'll read the entire transcript.

MR. BIBLOWITZ: Okay, fine.

Q (By Ms. Erenstein) Did you see her at work up until the time of the strike?

A No.

Q When did you stop seeing her?

A I stopped seeing her -- I can't exactly remember.

Q I see.

A But I know we were still working. And I remember she called in because I answered the phone. She said that she would be out for a week. This was before we went out on strike. Because she had a cold. And the next week, didn't come in. And our night supervisor told us that she had resigned.

Q Going back to the meeting at which you had -- the strike meeting, did you hear Margaret Leko say anything at that meeting? Did you hear her say anything?

A No, she didn't say anything.

Q Were you present at the picket line when she came in her car?

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A I was present there one morning when she came in her car.

Q At the beginning of the strike?

A Yes.

Q Do you remember anything about that?

A I know we all were surprised to see her come in through the picket line.

Q Do you remember if the police were there?

A The police were there.

Q Do you know what the police were doing at that time?

A Well, they came down the road and it was just before they turned in their drive, they had a signal light on. Before they can get in the drive, the police would tell us to spread them. And they would have their sticks. Each one would have a stick and one police would be on that end of the stick and one would be on the other. And they would be holding it out like this. Because we couldn't get near them. And when they passed up the driveway, then we were to continue to walk around the circle.

Q Did that happen at that time when you first saw --

A Pardon me?

Q On that day, when you saw her for the first time, did that --

A Yeah.

MR. BIBLOWITZ: What day is this, please?

MS. ERENSTEIN: I didn't say what day it was.

Q (By Ms. Erenstein) Do you remember the day specifically?

A I don't remember the day, but I think it was probably about the second day of the strike, I'm not sure.

Q It was right at the beginning?

A Yeah.

Q That was the first time you saw her in the car?

A Right.

MS. ERENSTEIN: I have no further questions.

JUDGE DONNELLY: I have just one before you begin to cross.

EXAMINATION

Q (By Judge Donnelly) At the union meeting, where the strike vote was taken -- how far were you away from Mrs. Lazarro at that meeting?

A I'd say like this is the room. I was sitting on the side, in that chair. Mrs. Lazarro was sitting over on that side. She probably was about four rows back because she always sits in the back on the end.

Q Mrs. Lazarro?

A Yes.

Q Okay, now how far away would that be in distance? Could you estimate that, from where you were to where Mrs. Lazarro was?

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A I could see Mrs. Lazarro.

Q Yeah, you could see her, but can you approximate how far away she was from you, that's the question.

MS. ERENSTEIN: I think I can help. Do you remember how big the room was?

THE WITNESS: The room was a little smaller than this one.

Q (By Judge Donnelly) Well, using this room, how far away -- just look around this room and tell us how far away with respect to some point in this room, she was away from where you're sitting right now. Look towards the back. How far back? How far towards the back of the room?

A She wasn't exactly way back in the room.

Q I'm talking about this room.

A This room?

Q Yes, this room.

A She was about --

Q First of all, is this room big enough? Was it further than this?

A No, this room is smaller than that room.

Q Was she farther away from you than the back wall of this room?

A No.

Q Was she closer than the back wall?

A Yes, she was closer.

Q About where in this room, tell us?

A I'd say she was about -- the first -- those chairs are. The first ones.

Q All right, maybe we can get a stipulation, or even walk it off. It looks to me like it's a distance of maybe --

MR. BIBLOWITZ: 30 feet.

JUDGE DONNELLY: Roughly 30 feet.

MR. BIBLOWITZ: Yes.

JUDGE DONNELLY: If you'd like to measure it, somebody can get up and measure it.

Is that stipulation acceptable?

MR. BIBLOWITZ: It is for me, Your Honor.

MS. ERENSTEIN: I have no sense of distance.

JUDGE DONNELLY: Is that stipulation acceptable?

MS. ERENSTEIN: It's acceptable, yes.

JUDGE DONNELLY: Then I'll receive it. All right. Go ahead. That's all I have.

MR. BIBLOWITZ: Just a few questions.

CROSS EXAMINATION

Q (By Mr. Biblowitz) Mrs. Giles?

A Yes.

Q I just want to discuss with you two situations. The meeting that you just have been asked about. The union meeting -- were you able to -- I'm sorry, strike that.

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Do you know if during that meeting, anyone spoke to Geraldine Lazarro? Do you know for a fact? Whether anybody spoke to her at that meeting?

A I don't know if anyone spoke to her individually, but we all were talking.

Q I see. Okay. Now, just a few questions regarding the incident with the car.

A Yes.

Q And Mary Faneuff. The car came down, you testified -- and tell me if I say anything that you didn't testify to.

A Yes.

Q The car came down. Slowed down somewhat. And then you felt that it wasn't slowing down enough so all of you started moving away.

A We all started moving back because she is supposed to come to a stop while we are making a circle.

Q Right, and you testified that while the car was going slowly at that point and she had to stop?

A Right.

Q Now, so you, at that point, physically were moving away weren't you?

A Well, I hadn't gotten over there, but I --

Q Right, so you were going fast?

A I had moved over there where I could see the car hit

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Mary.

Q Okay. Where were you at that point?

A I was on the left, on the left side of the drive, standing over there.

Q Would that be on the driver's side of the car?

A Right.

Q What side of the car was Mary Faneuff on?

A Mary Faneuff was going over to the right.

Q The passenger's side of the car?

A Right.

Q So that wouldn't your vision have been blocked?

A No, it wasn't blocked.

Q Well, what part of the car, exactly, hit her?

A The front part of the car.

Q The fender?

A The fender. The front part -- the fender --

Q Now, you were on the driver's side of the car?

A I was standing up.

Q Right, I understand. Where were you -- were you near where the driver is or were you back or were you front -- where in that place were you?

A I was just standing there over on the side. It's -- I was standing -- I don't know what you call it. I was standing --

Q I'm not trying to confuse you, believe me. Were you near where -- the back seat was, or were you closer to where the engine is?

A I was to the front. Right where I could see the front of the car.

Q Okay. Now the objects that the police found in the car. Could those objects have been table legs?

A They could have been.

MR. BIBLOWITZ: I have nothing further, Your Honor.

JUDGE DONNELLY: You're excused, thank you.

(The witness was excused.)

MS. ERENSTEIN: Your Honor, at this time, I have no other witnesses. However, I'd like to renew my request for a continuance of this hearing. There are several individuals who I would like to call as witnesses. Against whom certain allegations have been made. However, these individuals presently facing certain criminal charges -- and the price of their testifying here could give up their constitutional rights to not testify.

I have consulted again after the hearing yesterday -- I met again with their attorney and with my clients and we felt that at this time, it would not be advisable to call them. However, I must state, that they have managed -- matters of testimony of which I think are highly relevant here and I cannot present a full defense in this case without asking to waive these constitutional rights.

And for that reason, I ask that we have a continuance. I'm willing to specify who the people are so that they can at a future date testify as to allegations made against them.

JUDGE DONNELLY: My ruling is the same that I made yesterday. We're not going to continue.

MS. ERENSTEIN: May I specify who they are for the record?

JUDGE DONNELLY: I won't deny you the right to make a statement. You can make any statement you'd like.

MS. ERENSTEIN: Kevin Doyle, and Marilee Wilstein. Myrtle Nicholson, Mary Faneuff. There may be others. I'm not certain. In addition, I'd like to state that --

JUDGE DONNELLY: I'm not sure that the record reflects -- reflects the continuance -- yesterday afternoon that I granted until this morning. It was my understanding that the purpose of that continuance was for the reason -- for the purpose of enabling you to contact people that you had not been able to contact up until that time. Because otherwise, I would have assumed that you would have prepared to go on with your case at that time and I wouldn't have given any continuance.

MS. ERENSTEIN: Well, I think I did state that -- at the outset that Mr. Bown would not be able to attend yesterday and would be available first thing this morning.